

ELECTION REFORM: VOLUME 2

HEARINGS
BEFORE THE
COMMITTEE ON
RULES AND ADMINISTRATION
UNITED STATES SENATE
ONE HUNDRED SEVENTH CONGRESS
FIRST AND SECOND SESSIONS
TOGETHER WITH
ADDITIONAL STATEMENTS SUBMITTED FOR THE RECORD
VOLUME 2 OF 3



MARCH 14, JUNE 27, JUNE 28, AND JULY 23, 2001

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CONTENTS

VOLUME 1

ELECTION REFORM

MARCH 14, 2001

Opening statement of:	Page
Hon. Mitch McConnell, Chairman, a U.S. Senator from the State of Kentucky	1
Hon. Christopher J. Dodd, Ranking Member, a U.S. Senator from the State of Connecticut	3
Hon. Charles E. Schumer, member, a U.S. Senator from the State of New York	6
Hon. Mark Dayton, member, a U.S. Senator from the State of Minnesota .	26
Testimony and Statement of:	
A panel consisting of:	
James Gashell, Director of Governmental Affairs, National Federation of the Blind, Baltimore, MD	8
R. Doug Lewis, Executive Director, The Election Center, Houston, TX	12
A panel consisting of:	
Todd F. Gaziano, Senior Fellow in Legal Studies, The Heritage Foundation, Washington, DC	29
Hilary O. Shelton, Director, Washington Bureau, NAACP, Washington, DC	39
Juan A. Figueroa, President and General Counsel, Puerto Rican Legal Defense & Education Fund, Inc., New York, NY	45
Steven Knack, Professor, Bethesda, MD	49
A panel consisting of:	
John Samples, Director, Center for Representative Government, Cato Institute, Washington, DC	76
Robert R. Williams, Special Policy Advisor, United Cerebral Palsy Associations, Inc., Washington, DC	85
Linda Chavez-Thompson, Executive Vice President, AFL-CIO, Washington, DC	93
Deborah M. Phillips, Chairman, The Voting Integrity Project, Arlington, VA	97

REPORT OF THE U.S. COMMISSION ON CIVIL RIGHTS ON THE NOVEMBER 2000 ELECTION AND ON ELECTION REFORM ISSUES

JUNE 27, 2001

Opening statement of:	
Hon. Christopher J. Dodd, Chairman, a U.S. Senator from the State of Connecticut	113
Hon. Mitch McConnell, Ranking Member, a U.S. Senator from the State of Kentucky	117
Hon. Daniel K. Inouye, member, a U.S. Senator from the State of Hawaii	117
Hon. Dianne Feinstein, member, a U.S. Senator from the State of California	132
Hon. Robert G. Torricelli, member, a U.S. Senator from the State of New Jersey	133
Hon. Charles E. Schumer, member, a U.S. Senator from the State of New York	148

IV

	Page
Testimony and statement of:	
A panel consisting of:	
Hon. Mary Frances Berry, Chairperson, U.S. Commission on Civil Rights	120
Hon. Abigail Thernstrom, Commissioner, U.S. Commission on Civil Rights	134
Testimony and statement of:	
A panel consisting of:	
J. Kenneth Blackwell, Secretary of State, the State of Ohio, Columbus, OH	161
Hilary O. Shelton, Director, Washington Bureau, National Association for the Advancement of Colored People, Baltimore, MD	166
Raul Yzaguirre, President, National Council of La Raza	176
A panel consisting of:	
Carolyn Jefferson-Jenkins, President, League of Women Voters of the U.S., Washington, DC	196
Larry Sabato, Director, University of Virginia, Center for Government Studies, Charlottesville, VA	208
James C. Dickson, Vice President for Governmental Affairs, American Association of People with Disabilities, Washington, DC	216

MEMBERS OF THE HOUSE OF REPRESENTATIVES ON ELECTION REFORM ISSUES

JUNE 28, 2001

Opening statement of:	
Hon. Christopher J. Dodd, Chairman, a U.S. Senator from the State of Connecticut	233
Hon. Mitch McConnell, Ranking Member, a U.S. Senator from the State of Kentucky	239
Testimony and statement of:	
A panel consisting of:	
Hon. John Conyers, Jr., Ranking Member, House Committee on the Judiciary, a Representative in Congress from the State of Michigan	240
Hon. Robert W. Ney, Chairman, House Administration Committee, a Representative in Congress from the State of Ohio	246
Hon. Steny H. Hoyer, Ranking Member, House Administration Committee, a Representative in Congress from the State of Maryland ...	255
Hon. Robert Wexler, a Representative in Congress from the State of Florida	261
Hon. Roy Blunt, a Representative in Congress from the State of Missouri	267
Testimony and statement of:	
A panel consisting of:	
Hon. Eddie Bernice Johnson, a Representative in Congress from the State of Texas	278
Hon. Xavier Becerra, a Representative in Congress from the State of California	279
Hon. Corrine Brown, a Representative in Congress from the State of Florida	296
Hon. Peter Deutsch, a Representative in Congress from the State of Florida	315
Hon. Carrie P. Meek, a Representative in Congress from the State of Florida	318
A panel consisting of:	
Hon. Dale E. Kildee, a Representative in Congress from the State of Michigan	337
Hon. Maxine Waters, a Representative in Congress from the State of California	344
Hon. Silvestre Reyes, a Representative in Congress from the State of Texas	349
Hon. Charles A. Gonzalez, a Representative in Congress from the State of Texas	353

V

	Page
Testimony and statement of—Continued	
A panel consisting of:	
Hon. Mark Foley, a Representative in Congress from the State of Florida	357
Hon. John E. Sweeney, a Representative in Congress from the State of New York	363
Hon. Sheila Jackson Lee, a Representative in Congress from the State of Texas	373

FIELD HEARING IN ATLANTA, GA ON ELECTION REFORM ISSUES

JULY 23, 2001

Opening statement of:	
Hon. Christopher J. Dodd, Chairman, a U.S. Senator from the State of Connecticut	395
Hon. Max Cleland, a U.S. Senator from the State of Georgia	398
Testimony of:	
A panel consisting of:	
Hon. Anil Lewis, President of the Atlanta Metropolitan Chapter of National Federation of the Blind, Atlanta, GA	403
Diane Smith, voter, Rex, GA	412
Juanita Sanders Cribb, voter, Stone Mountain, GA	414
A panel consisting of:	
Vernon Jones, Chief Executive Officer, De Kalb County, Decatur, GA	426
Hon. A. Von Spakovsky, vice chairman, Fulton County Board of Registration and Elections, Atlanta, GA	434
Hon. Cathy Cox, Secretary of State, State of Georgia, Atlanta, GA	443
Reverend Doctor Joseph E. Lowery, Chairman, Georgia Coalition for the People's Agenda, Atlanta, GA	453

VOLUME 2

APPENDICES

Material submitted for the record on March 14, 2001:	
Appendix 1. "2000 Professional Practices Papers," presented by The Election Center, submitted for the record by Chairman McConnell	479
Appendix 2. "Elections: the Scope of Congressional Authority in Election Administration," U.S. General Accounting Office, (March, 2001; GAO-01-470), submitted for the record by Ranking Member Dodd	577
Appendix 3. "Elections the Brazilian Way," submitted for the record by Ranking Member Dodd	610
Appendix 4. Statement of the Hon. Shelia Jackson Lee, a U.S. Representative from the State of Texas, submitted for the record by Ranking Member Dodd	611
Appendix 5. Attachments to the statement of Deborah M. Phillips, Chairman, Voting Integrity Project, submitted for the record	628
Appendix 6. Statement of Barbara R. Arnwine, Executive Director, Lawyers' Committee for Civil Rights under Law, March 14, 2001, submitted for the record by Ranking Member Dodd	648
Appendix 7. Statement of Raul Yzaguirre, President, National Council of La Raza, submitted for the record by Ranking Member Dodd	681
Appendix 8. Statement of Todd A. Cox, Assistant Counsel, NAACP Legal Defense and Educational Fund, submitted for the record by Ranking Member Dodd	688
Materials submitted for the record on June 27, 2001:	
Appendix 9. "Motor Voter Out of Control," by Christopher S. "Kit" Bond, The Washington Post, June 27, 2001, submitted for the record by Ranking Member McConnell	692
Appendix 10. "Supplemental Statement on USCCR Procedures Pertaining to the Florida Voting Rights Report," submitted for the record by the Hon. Mary Frances Berry, Chairperson, U.S. Commission on Civil Rights	693

	Page
Materials submitted for the record on June 27, 2001—Continued	
Appendix 11. “Report on the Racial Impact of the Rejection of Ballots Cast in the 2000 Presidential Election in the State of Florida,” by Allan J. Lichtman, Professor, Department of History, American University, Washington, D.C., June 2001, submitted for the record by the Hon. Mary Frances Berry, Chairperson, U.S. Commission on Civil Rights	722
Appendix 12. “The Florida Election Report: Dissenting Statement by Commissioner Abigail Thernstrom and Commissioner Russell G. Redenbaugh,” submitted for the record by the Hon. Abigail Thernstrom, Commissioner, U.S. Commission on Civil Rights	817
Appendix 13. “Non-Voted Ballots and Discrimination in Florida,” by John R. Lott, Jr., School of Law, Yale University, June 25, 2001, submitted for the record by the Hon. Abigail Thernstrom, Commissioner, U.S. Commission on Civil Rights	875
Appendix 14. “Whose Votes Don’t Count?: An Analysis of Spoiled Ballots in the 2000 Florida Election,” by Philip A. Klinkner, Associate Professor of Government, Hamilton College, submitted for the record by Chairman Dodd	891
Appendix 15. Statement of Marisa J. Demeo, Regional Counsel, Mexican American Legal Defense and Education Fund, June 27, 2001, submitted for the record by Chairman Dodd	915
Appendix 16. Statement of Leadership Conference on Civil Rights, June 27, 2001, submitted for the record by Chairman Dodd	925
Appendix 17. Statement of Barbara R. Arnwine, Executive Director, Lawyers’ Committee for Civil Rights under Law, June 27, 2001, submitted for the record	927
Appendix 18. Statement of Margaret Fung, Executive Director, Asian American Legal Defense and Education Fund, submitted for the record	973
Appendix 19. Statement of LaShawn Warren, Legislative Counsel, American Civil Liberties Union, submitted for the record	977
Appendix 20. Statement of American Association of People With Disabilities, submitted for the record	979
Appendix 21. Statement of Gerald W. McEntee, President, AFSCME, submitted for the record	980
Appendix 22. Statement of General Board of Church and Society, United Methodist Church, submitted for the record	981
Appendix 23. Statement of United Cerebral Palsy Association, submitted for the record	983
Appendix 24. Statement of American-Arab Anti-Discrimination Committee, submitted for the record	986
Appendix 25. Statement of Religious Action Center of Reform Judaism, submitted for the record	987
Appendix 26. Statement of National Asian Pacific American Legal Consortium, submitted for the record	989
Appendix 27. Statement of Consortium for Citizens with Disabilities, submitted for the record	990
Appendix 28. Statement of Alan Reuther, Legislative Director, International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, submitted for the record	993
Appendix 29. Statement of Organization of Chinese Americans, submitted for the record	995
Appendix 30. Statement of Joan Claybrook, President, Public Citizen, submitted for the record	996
Appendix 31. Statement of United Church of Christ Justice and Witness Ministries, submitted for the record	998
Appendix 32. Statement of William McNary, President, US Action, submitted for the record	1000
Appendix 33. Statement of NAACP, submitted for the record	1001
Appendix 34. Statement of William Samuel, Director, AFL–CIO, submitted for the record	1004
Appendix 35. Statement of Ralph G. Neas, President, People for the American Way, submitted for the record	1005
Appendix 36. Statement of William F. Welsh II, Chairman, Election Systems & Software, submitted for the record	1007
Appendix 37. Statement of the Hon. John Conyers, Jr., a U.S. Representative from the State of Michigan, submitted for the record	1011

VII

	Page
Materials submitted for the record on June 27, 2001—Continued	
Appendix 38. Statement of the Hon. Christopher J. Dodd, Chairman, a U.S. Senator from the State of Connecticut, submitted for the record	1012
Appendix 39. “Finding Racial Bias Where There Was None.” National Journal, June 9, 2001, submitted for the record by Ranking Member McConnell	1013
Appendix 40. “The Florida Travesty, Cont.,” The Weekly Standard, June 18, 2001, submitted for the record by Ranking Member McConnell	1015
Appendix 41. “Boxing With Ballots,” US News and World Reports, June 16, 2001, submitted for the record by Ranking Member McConnell	1017
Appendix 42. “Spoiled,” The New Republic, June 25, 2001, submitted for the record by Ranking Member McConnell	1018
Appendix 43. Additional questions for the record from Members and answers submitted by witnesses	1019

VOLUME 3

Appendix 44. “Voting Irregularities in Florida During the 2000 Presidential Election,” United Commission on Civil Rights, June 2001, submitted for the record	1057
Materials submitted for the record on June 28, 2001:	
Appendix 45. Statement of Hon. James R. Langevin, a U.S. Representative from the State of Rhode Island, submitted for the record	1205
Appendix 46. [Deleted.]	
Appendix 47. “Advancing Election Reform,” New York Times, July 8, 2001	1208
Materials submitted for the record on July 23, 2001:	
Appendix 48. Statement of Hon. Max Cleland, a U.S. Senator from the State of Georgia, submitted for the record	1210
Appendix 49. Letter from the Consortium for Citizens with Disabilities, submitted for the record	1212
Appendix 50. Statement of American Society for Quality, submitted for the record	1215
Appendix 51. “A Record of Police Intimidation and Arrest of Minority Voters in Cobb County, Georgia on November 7, 2000.” by Laura M. Lester, submitted for the record	1221
Appendix 52. “NAACP Voters Public Hearing,” Atlanta City Council Chambers, Atlanta, Georgia, November 21, 2000, submitted for the record in support of testimony by Diane Smith	1224
Business meeting.—August 2, 2001:	
Appendix 53. Business Meeting, Thursday, August 2, 2001, Committee on Rules and Administration	1525
Opening statement of:	
Hon. Christopher J. Dodd, Chairman, a U.S. Senator from the State of Connecticut	1525
Hon. Robert G. Torricelli, member, a U.S. Senator from the State of New Jersey	1559
Hon. John B. Breaux, member, a U.S. Senator from the State of Louisiana	1560
Hon. Charles E. Schumer, member, a U.S. Senator from the State of New York	1562
Hon. Mark Dayton, member, a U.S. Senator from the State of Minnesota	1583
Hon. Robert C. Byrd, member, a U.S. Senator from the State of West Virginia	1590
Hon. Tom Daschle, Majority Leader, a U.S. Senator from the State of South Dakota	1593
Hon. Richard J. Durbin, member, a U.S. Senator from the State of Illinois	1603
Hon. Dianne Feinstein, member, a U.S. Senator from the State of California	1604
Hon. Daniel K. Inouye, member, a U.S. Senator from the State of Hawaii	1605

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2000

**PROFESSIONAL
PRACTICES PAPERS**

PRESENTED BY
THE ELECTION CENTER

PREPARED BY: JANIS K. WOMACK, CHAIR
PROFESSIONAL PRACTICES COMMITTEE

2000 PROFESSIONAL PRACTICES PAPERS

In 1995 the Election Center's Certification Board established a subcommittee to create a Professional Practices Program:

(1) to provide a means for the exchange of innovative ideas within the election community to address the needs of our constituents, and

(2) to provide an opportunity to recognize an Election Official for the development and/or implementation of a successful practice in his/her jurisdiction.

We have expanded to notebook size! The number of entries to the Professional Practices Program continually increases, and this year the Committee is very pleased with the number and quality of papers received. Kudos to the election professionals who took the time to prepare papers to share with other jurisdictions. This extra effort will provide Election Officials with the ideas and wisdom needed to successfully perform their roles within their own communities.

Many thanks to Jane Carroll, Supervisor of Elections, Broward County, Florida, for her years of developing and refining this exchange of ideas and making it the successful program it has become, as well as the many years she has willingly shared her own successful innovations and expertise with the election community.

2000 PROFESSIONAL PRACTICES COMMITTEE:

JANIS K. WOMACK, CHAIR

JANE CARROLL

DEBRA BLANTON

2000 Professional Practices Papers

- David Orr, County Clerk, Cook County, Illinois.....
*Student Involvement: First Judge; Mock Elections; and First
 Voter Programs.....*
Winning Professional Practice
- David Orr, County Clerk, Cook County, Illinois.....
*Internet Innovations: Online Voting Guide; Virtual Ballot; and
 Polling Place Finder*
- Marlene Gabriel, Director, Lawrence County Voter Registration/Elections.....
Voting for 50 years or more.....
Honorable Mention Professional Practice
- Fred D. Galey, Brevard County, Florida, Supervisor of Elections.....
Application of Operations Analysis in a Mail Ballot Election
- Cherie R. Poucher, Wake County Board of Elections.....
Poll Book Design
- Conny McCormack, Registrar-Recorder/County Clerk for Los Angeles
 County.....
*An Informational Manual to the Primary 2000 Election For Media,
 Community Organizations and Interested Citizens*
- Thomas R. Wilkey, Executive Director, New York State Board of Elections.....
Guide to Operating a County Board of Elections
- Mischelle Townsend, Registrar of Voters, County of Riverside.....
Creating Manageable Precincts
- Mischelle Townsend, Registrar of Voters, County of Riverside.....
New Voting Technology Process
- Connie Schmidt, Election Commissioner, Johnson County Election Office.....
Celebration of Patriotism Foundation of Johnson County, Kansas
Honorable Mention Professional Practice

- Daniel Binford, Systems Administrator, Mecklenburg County Board of Elections.....
Cleaning the Voter Registration Lists is Good Business Sense
- Daniel Binford, Systems Administrator, Mecklenburg County Board of Elections.....
The Web Site is our Front Counter
- Catherine O. Davis, Elections Administrator, Allegany County Board of Elections.....
Address Data Base
- Elaine Ginnold, Assistant Registrar of Voters, Alameda County Registrar of Voters.....
A Program to Test and Certify Election Inspectors
- Marilyn Gerkin, Supervisor of Elections, Sarasota County Florida.....
Working with Disabled Persons
- Sam Reed, County Auditor, Thurston County, Washington.....
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Increasing Electoral Participation among 18-24 year-olds

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Election Center Professional Practices Paper Student Involvement: First Judge; Mock Elections; and First Voter programs

Just because young adults can't cast ballots on Election Day doesn't mean they can't play a valuable role in the electoral process, the Cook County Clerk's office believes.

In fact, connecting with high school students – even those who have yet to reach voting age – and convincing them that they can make a difference has become a top priority for Cook County Clerk David Orr.

Orr's administration has established three school programs designed to get young adults involved: the **First Judge Program** enables high school seniors to serve as election judges; the **Mock Election Program** allows students to cast demonstrator ballots for candidates vying for national and state offices; and the **First Voter Program** trains 18-year-olds to become deputy registrars.

The Clerk's office instructs teachers and students on how to conduct the programs, tailors each plan to fit each school's needs and demonstrates how to incorporate them as vehicles for classroom learning. Schools are encouraged to take part in the programs, which are designed to complement one another and create the energy and excitement of an actual campaign season.

FIRST JUDGE

The 2000 March primary marked the first election that the First Judge Program took effect in Illinois. In suburban Cook County, more than 225 students, many of whom were 17 years old, served as election judges and shared the same responsibilities as their older counterparts.

In lobbying the state Legislature for passage of the measure that created the program, Orr argued that serving as a teen judge would enable young people to get a first-hand view of democracy, not just from the classroom.

Under the law, Principals from participating high schools must nominate the students and parents must give their permission. Eligible teens must also maintain at least a 3.0 grade point average and demonstrate an interest in the political process. No more than two teen judges – one from each political party – can serve in a single precinct.

The student judges receive the same training and pay – \$150 for working Election Day and attending a training session – as adult judges.

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The program also fills a need by increasing the potential pool of election judges required to staff polling places on Election Day. The 2,500 precincts in suburban Cook County require nearly 13,000 judges.

MOCK ELECTIONS

Prior to the primary, thousands of suburban high school students took part in countywide Mock Elections by casting demonstrator ballots for candidates vying for U.S. president. This program gives teens, most of whom are not of voting age, the experience of running and participating in an election.

At each school, students used actual voting machines and equipment employed by the county and the Clerk's office provided instruction on how to administer an election and also tabulated an overall student vote total.

More intense plans have involved schools conducting an entire "campaign season" that includes holding debates, producing and distributing campaign literature and registering voters. During the 1996 Mock Election, more than 30,000 students cast ballots for presidential contenders.

FIRST VOTER

Since 1991, the Clerk's office has been training 18-year-olds to become registrars as part of the First Voter Program at the start of each school year. As a result, more than 35,000 voters have been added to the county voting rolls and more than 3,000 young adults have been trained as registrars during that time.

The student registrars – who undergo the same training as other registrars – are encouraged to sign up their family and friends, the vast majority of whom are first-time voters. Many schools offer students incentives for participating in the program, set up training seminars and coordinate a Registration Day for the entire school.

The Clerk's office also encourages the schools to conduct their own registration drives and organize grassroots campaigns as a means of raising awareness to the upcoming election.

Each of these programs allow teachers to augment their academic curriculum by giving students the first-hand experience and knowledge of the democratic process as well as providing opportunities for project assignments and lesson plans. Ultimately, they not only demonstrate the importance of participating in democracy but also the impact of mobilizing people, harnessing their voting strength and affecting the quality of life in their communities.

By getting younger people get involved in the electoral process early on, Orr's office believes, the more likely they will become regular voters throughout their lives.

Chicago Tribune March 12, 1999

Hands-on learning on Election Day

An election judge is the traffic cop of the ballot box, the person who opens up the polling place before dawn, enforces the rules during the day, counts the votes at night and goes home very tired.

It can be fun, but even with the lure of a \$100 paycheck for what usually turns into a 16-hour day, there often are not enough people to serve as judges. Now Cook County Clerk David Orr has offered a proposal to fill the vacancies and turn Election Day into a learning experience. He has proposed letting high school seniors work as election judges.

As the law now stands, Illinoisans can't serve as election judges unless they are at least 18 and can vote. The bill would allow seniors who aren't yet 18 to police polling places, although they still wouldn't be allowed to cast a ballot.

This would be a learning experience for the teens.

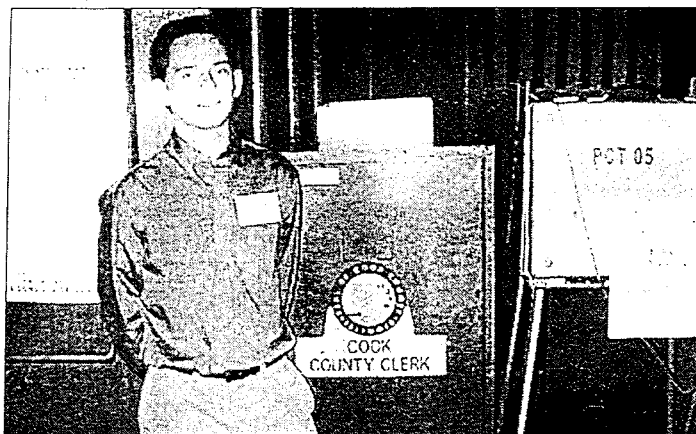
They would learn that in Chicago the precinct captain is always good for a box of jelly donuts in the morning and usually good for a fast-food run at noon. They would learn that each polling place is supposed to have Republican judges and Democratic judges, but the last Republican left Chicago years ago so the Republican judges usually are Democrats in disguise.

They also would learn that being an election judge means going through a long, tedious, unglamorous day for a very high purpose. They would see democracy outside a textbook.

The bill has broad, bipartisan support from the likes of Sen. Steve Rauschenberger (R-Elgin) and Rep. Andrea Moore (R-Libertyville), and Sen. Lisa Madigan (D-Chicago) and Rep. Mike Boland (D-East Moline).

It's a good idea, and the legislature should make it the law.

HIGH SCHOOL ELECTION JUDGE



Vote of confidence: Just-turned 18-year-old Zach Schauf celebrates his right to vote by becoming an election judge.

He's old enough to have his say

A week ago, Zach Schauf was just a valedictorian, Stanford-bound senior at Oak Park and River Forest High School. This week he's a valedictorian, Stanford-bound senior at OPRF who can vote.

To celebrate his 18th birthday and his first election, he also decided to become an election judge. If you voted at Mann School yesterday, you probably saw him handing out ballots, checking names and addresses, doing, in fact, the second most important job in our democratic system.

The most important job would be voting, which Zach also did.

You may see more high school students serving as election judges in the future, thanks to a new program started by the County Clerk's office. According to County Clerk spokesman—and Oak Park resident—Scott Burnham, Clerk David Orr co-sponsored legislation last year which now allows even 16- and 17-year-olds to serve as election judges, presuming they get the OK from all the adult authorities in their lives—school officials, teachers and parents. You need to carry a minimum 3.0 grade-point average and you have to take a day off from school to do this kind of work, not to mention getting up way earlier than on a normal school day. The polls open at 6 a.m., so judges have to be on hand by 5:30.

On the other hand, "They get to view the democratic process first-hand," observes Burnham, "not just from a textbook."

OK, maybe that's not quite enough reason for an adolescent to roll out of bed at 4 a.m. on the third Tuesday of March, but the money's not bad.

■ Off Beat

Judges get paid \$50 to attend a two-hour training session beforehand and another \$100 for their day as a judge.

It's a long day, though, and depending on the level of voter apathy in your precinct, it could get downright boring. The polls close at 7 p.m., but then the important work begins: counting the ballots and transporting the tally to the location where they will be officially recorded.

Fourteen hours is a commitment, but Schauf seemed up for it when we talked to him Monday night. For one thing, he was working in his own precinct at the elementary school he once attended.

"And the money didn't hurt," he admits, "but I was interested anyway" when Stan West, another Oak Park, Cook County Clerk's office employee and *Wednesday Journal* columnist, made an appearance in Richard Mertz's law class to explain the program. He also spoke to Heidi Lynch's Comparative Politics class, where he deputized a number of student registrars who immediately signed up some 15 new voters.

Schauf says he's interested in politics, as are a number of his friends, contrary to the rap with which his generation frequently gets slapped. Schauf identifies himself as an "independent" politically. He is "distinctly uninspired" by the choice for U.S. president this coming fall, but Gore is showing a bit better lately, he says.

Uninspired also describes the adult electorate, which is one of the reasons

Orr sought to increase the pool of election judges by appealing to students. Burnham says there are 2,500 precincts in suburban Cook County alone—and they need some 13,000 judges to man those polling places.

Judging by the turnout at the training session last Wednesday, however, there is a fair amount of interest in working elections. The age range extended from seniors in high school to seniors in citizenship. Some 150 in all filled an auditorium-style classroom at Triton College's Industrial Arts building, though West notes that the average age of election judges these days is 75. Each attendee received a manual, which Schauf says answers every question and details every contingency.

After viewing a video about a day at the average polling place, featuring decidedly non-professional actors, a chipper instructor from the county clerk's office explained some of the material not covered in the film—like why you shouldn't hang all three kinds of handicapped accessibility signs outside when only one applies. Idiot-proofing is an crucial part of the democratic process.

But it's a process that Zach Schauf knows he's going to be part of for a long time. "It's a privilege," he said. "It's something you should do, having your say in the direction of the village and the country. It's fun being old enough to have a say. I just thought the first time I voted, I'd see how the process works. I'm going to be doing this for the rest of my life."

Maybe there's hope for democracy after all.

—Ken Trainor

increase in the district in near-20 years to help the library maintain and improve the services it provides. "We're very happy," library trustee Brent Woods said. "It will let us do some of the

results reported by Woods, the measure passed 407 to 325.

"Most of what we heard (from voters) was that they support the library, use it and would like to see improvements," Woods said.

increase in the library district's corporate fund tax rate, which will raise the rate in that fund from 25 cents to 35 cents per \$100 of equalized assessed valuation.

The average homeowner in

provide enough money for the library to buy all the materials its patrons request.

If voters had not approved the tax increase, Woods said, the library district would have raised the money through fundraisers.

Introduction to politics



Jessica Burge, a senior at Stagg High School in Palos Hills, works with other election judges Tuesday at the polling place at Rosebud Mobile Home Park in Bridgeview.

Seniors get work as election judges

by Janis Shumac Parker
Daily Southtown

Voters at some polling places Tuesday may have been surprised to see some right young faces serving as election judges.

Nearly 200 high school seniors served as election judges throughout Cook County during Tuesday's primary election as part of a new program sponsored by the

Cook County clerk's office.

Sakita Gilliam, a senior at Bloom High School in Chicago Heights, decided to serve as a judge after being asked to do so by her government teacher.

Not only did Gilliam, 18, get to be an election judge for the first time, but she also voted for the first time.

COOK COUNTY

"I'm sort of interested in politics and decided this was something I wanted to do. Plus, we get paid," said Gilliam, who served as a judge at the polling place at Highland Elementary School in her hometown of Hazel Crest.

The students, like all election judges, received \$150 for working election day and attending a two-hour training ses-

See Judges page 2

Judges

Continued from page 1

sion prior to the election.

"We learned about the election procedure during the training session, then took a test at the end of the training to make sure we understood what we had learned," Gilliam said.

Election judges reported to their assigned polling places at 5:30 a.m. and worked until after the polling places closed. The students had to receive written permission from their parents to miss a day of school.

Students were nominated for the jobs by their teachers and principals. They had to have at least a 3.0 grade point average and show they had an interest in the political process, said Scott Burnham, spokesman for county Clerk David Orr.

Daniel Skupien of Hickory Hills worked as an election judge at the Lutheran Church of the Holy Apostles in Hickory Hills.

It was a quiet morning for Skupien, though he said he didn't expect it to be too busy.

"About 50 people came in by noon. Since the presidential nominee has already been determined, I guess that's why a lot of people aren't coming in," he said.

The 17-year-old decided he wanted to be an election judge so he could learn more about the election process.

"We're learning about the voting process in our government class, and I wanted to really know what it was about so I decided to participate," said Skupien, a senior at Stagg High School in Palos Hills.

That's the point of the student election judge program, Burnham said.

"We want the students to have a first-hand look at the election process so they can learn more about it then they can out of a textbook," Burnham said.

In addition, the county experienced a shortage of election judges, and the students helped fill some of the gaps, he said.

Jessica Burge, 17, of Bridgeview, worked at a polling place in Rosebud Mobile Home Park in her hometown. She admitted to not being that interested in politics, but decided to be a judge because it was something different.

"I just wanted to try it," said Burge, who is also a senior at Stagg.

Legislation approved by the Illinois General Assembly in 1999 allows qualified high school seniors to serve as election judges.

The students do not necessarily have to be of voting age. No more than two student judges can serve in a single precinct.

First Voter Program

U-46 students to help get their peers to polls

By Tanya Tabor
Daily Herald Staff Writer

When it comes to a \$280 million referendum to build more schools in Elgin Area School District U-46 in March or electing a new president in November, Elgin and Streamwood students will play a bigger role than ever in the electoral process.

It is not just their vote that counts.

Through a new outreach program aimed to get more students involved in the electoral process, Cook County students now have the power to help run the polls and to even register their friends to vote.

Cook County Clerk representatives visited Elgin and Streamwood high schools last month to announce the program, plan to visit dozens throughout the county, including high schools in Palatine, Schaumburg, Elk Grove, Wheeling and Mount Prospect.

In an effort to get more students to the polls, Cook County Clerk David Orr has championed a three-tiered outreach program.

One of the program's last phases was the voter registration drive in spring and fall elections with the passage of a new state law that allows high school seniors to serve as election judges.

Following the leads of other states such as Arizona and California, Illinois now is reaching to its young people to help fill the "stage of poll."

appealing to adults.

"When the economy is good, people have other things to do," Orr said.

But to students, the money plus a day out of school makes it worthwhile.

As election judges, students help them learn how to register voters, then stocked with ballots, helping senior citizens and making sure all equipment is working.

"It is a very valuable day off. They are going to learn a lot," Orr said.

But first students must have at least a 3.0 grade point average and permission from their principals. In addition, they must participate in a two-day training session.

The new First Judge program is one of several programs the Cook County Clerk's office is pushing to get more young people to vote and participate in elections.

During the 1996 presidential election 22 percent of 18-24 years old voted, Orr said.

That is close to half the percentage of older adults who voted, he said.

"Among young people it is alarmingly low," he said.

In 1992 the Cook County clerk's office hit the schools holding voter registration drives, swearing in students to be registrars and supplying them with materials to hold mock elections.

Since then, the office has registered 30,000 young adults to vote and



Streamwood High School senior Kathy Gresey, in front, along with the rest of her classmates, is sworn in as a student registrar for the Cook County clerk's office.

Daily Herald Photo/George LeClare

Orr said.

The good economy could be partly to blame for short-term, he said. Working a 17-hour da

workers on election day.

"It gives us much needed judges and, secondly, it gives wonderful experience to these young people,"

more than 3,000 have been trained as registrars.

By raising their right hands and vowing to uphold the constitution, students obtain the authority to register their classmates to vote while at school.

"This is empowering," said Stan West, community relations coordinator for the Cook County clerk's office. "We call it hooking up your honeys."

This week, senior Julio Suarez was among at least 50 newly sworn registrars at Elgin High Schools.

"It just seemed like fun. Maybe if we voted it would change a little bit for us," he said.

Cook County educators, too, are excited about getting more students involved in the electoral process.

In fact, Elgin High School was the first high school to receive an internship from the Cook County Clerk's office.

"We want them to get ready to vote and see the importance of participating in the elections — local and national," said Marian Contreras Allen, chairman of the social studies, music and foreign languages departments at Elgin High School.

Office of the County Clerk

David Orr, Cook County Clerk



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Election Center Professional Practices Paper

Internet Innovations: Online Voting Guide; Virtual Ballot; and Polling Place Finder

Many voters who call the Cook County Clerk's office prior to Election Day often ask one of two questions: Where is my polling place? and How do I find out more information about the candidates running for office?

These might sound like easy questions, but getting answers – particularly during the busiest time of the year for an election authority – is often a difficult chore.

With so many calls coming in, reaching a representative on the phone to find a polling place location in a jurisdiction with nearly 2,500 precincts often took time, and patience.

Finding an answer to the second question had been more problematic. Voters understandably feel uncomfortable casting ballots for candidates they know little – if anything – about. Yet, Illinois voters are left with few options on where to find unfiltered information about politicians and their platforms.

In working to find a solution, Cook County Clerk David Orr's office developed an elections website (www.voterinfo.net) that would address the specific needs of voters. Orr not only wanted the new technology to empower voters by providing useful information, but he sought to distribute information that voters could easily access and digest.

ONLINE VOTER GUIDE

As a result, the Clerk's office launched its online voter guide that – much like a printed voter guide already published in several states – offered voters an opportunity to familiarize themselves with candidates.

After filing their nominating petitions with the Clerk's office last December, each candidate running for office in Cook County this year was asked to submit a 400-word statement to highlight his or her positions, qualifications and background.

The response was tremendous. More than 175 candidates provided statements that the Clerk's office posted on its website, including those from candidates competing in low-visibility races that tend to generate little interest or gain much exposure. The Clerk's office then promoted the site in the local media to alert voters.

On voterinfo.net, the name of each candidate who submitted a statement to the Clerk's office was highlighted, allowing voters to just point and double click on the name to retrieve the statement that read more about the candidate's background and reasons for running.

118 N. Clark, Room 434, Chicago, IL 60602

E-Mail: dorr@cookcountyclerk.com

www.cookcountyclerk.com

Printed on recycled paper ♻

Voterinfo.net.com serves a valuable purpose because, Orr notes, useful information has unfortunately become a scarce commodity these days. Furthermore, voters have grown tired of the electoral process as 10- to 30-second soundbite-driven campaigns often result in manipulated, negative messages. Voterinfo.net.com also enables voters to compare candidates, who are often difficult to tell apart based on campaign literature and advertisements.

Orr hopes the voter guide could serve as a vehicle for campaign reform as all candidates, including those who don't have the ability to build massive war chests, now have the opportunity to get their message across. By empowering voters to make better informed choices on Election Day, voter guides could ultimately encourage participation in the electoral process as well.

VIRTUAL BALLOT

With more than 1,000 candidates and more than 300 ballot styles throughout the county, voters are often unaware who is running in their individual community. Voterinfo.net.com is equipped to assist voters in locating the names of candidates running in each of the nearly 2,500 precincts prior to Election Day.

By simply typing in their street address, voters can access a customized “virtual ballot” containing the names of every candidate who will appear on their actual polling place ballot. Each online ballot also highlights the names of the candidates who have submitted voter guide statements to the Clerk’s office.

POLLING PLACE FINDER

Voterinfo.net.com also allows voters – many who have recently moved and had never voted in their new neighborhood – to use the Internet to find their polling places. Like locating a virtual ballot, the voter needs only to type a street address to find his or her polling place location and determine whether or not it is wheelchair accessible.

Along with helping voters in making their decisions, voterinfo.net.com saves time as voters are now less likely to call the Clerk’s office on Election Day. It also frees up the Clerk’s staff.

Voters can also access the website to access other election-related information, including past election results, absentee voting application forms and information, voter registration and how to become an election judge.

Voters have a genuine interest in taking part in the democratic process and share real concerns about what happens in their communities and schools. Naturally they have the opportunity to vote, but, Orr’s office contends, they also need the opportunity to make an informed choice on Election Day and become more engaged in the democratic process. Technology can play a crucial role in achieving this.

Make a difference.



COOK COUNTY ELECTION DEPARTMENT
COUNTY CLERK DAVID OR

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Personal Polling Place & Ballot

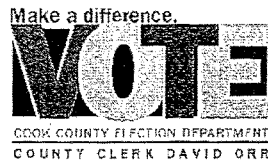
Enter your address to find your polling place and see candidates on your ballot in the primary. If you don't live in suburban Cook County, you aren't in the area where we run elections, so please use the 'Candidates' link at left to view the Voter Guide.

House No.	Dir	Street	Street Type
855	-	Linman	avenue
City		Zip	
evanston		63202	
I would like to see the		Democratic Ballot	
SHOW MY POLLING PLACE & BALLOT			Reset

You are invited to email rchew@cookctyclerk.com with any questions or comments about these pages.

Election Department Phone: 312 603-0906

Election Department TDD: 312 603-0902



Your Polling Place Is:

THE MAIN BUILDING
845 CHICAGO AVE, EVANSTON

ACCESSIBLE FOR PEOPLE WITH DISABILITIES:
Y

Polling places can change. Please check again a few days before the election.

Democratic Ballot Tuesday, March 21		This Voter Guide is a service of the League of Women Voters and Cook County Clerk David Orr. Statements come from the candidates themselves and do not reflect the views of the League or the Clerk's Office.
PRESIDENT		Al Gore Bill Bradley Lyndon H. LaRouche, Jr.
Districted Races		
09th Congress	Jan Schakowsky	
09th Senate	Carol Roren	
18th Representative	Julie Hamos	
9th Subcircuit - A Vacancy	James R. Epstein Paul William Plotnick Paul Sabin Pamela Shu Judy Frydland	
County Races		
Commissioner MWRD 6 yr. (vote for three)	Nadine M. Zapolsky Thomas Francis Courtney Harry "Bus" Yourell Terrence J. O'Brien Mel (Cemerius) "Tony" Johnson M. Frank Avila Zdzislaw "Zsa" Popielarczyk James "Jim" Harris	

	John J. McNamara
	Anthony J. Worski
	Lawrence F. Andolino
	Joseph M. Glorioso
Commissioner MWRD 2 yr unexp.	Quinn M. Avila
	Martin A. Sandoval
	Lynn T. Carmody
State's Attorney	Richard A. Devine
Recorder of Deeds	Eugene "Gene" Moore
Circuit Court Clerk	Patricia Young
	Dorothy A. Brown
	Patrick J. Levar
	Joe Moore
Judicial Races	
1ST SUPREME - BILANDIC VACANCY	WILLIAM COUSINS, JR.
	THOMAS R. FITZGERALD
	MORTON ZWICK
	CHRISTINE PATRICIA CURRAN
1ST APPELLATE - McNAMARA VACANCY	SHELVIN LOUISE MARIE HALL
	DANIEL JOSEPH KELLEY
	DENISE MARGARET O'MALLEY
OK CIRCUIT - BANKS VACANCY	THOMAS MORE DONNELLY
	LAURA MARIE SULLIVAN
	MATTHEW E. COGHLAN
	BEVERLY SUSLER PARKHURST
COOK CIRCUIT - CORBOY VACANCY	Marvin J. Leavitt
	Dennis Michael McGuire
	Joyce M. Murphy
	Thomas James Lawler
COOK CIRCUIT - CZAJA VACANCY	Mary Margaret Brosnahan
COOK CIRCUIT - DUNNE VACANCY	Domenica A. Stephenson
	Paul A. Karkula
COOK CIRCUIT - GETTY VACANCY	Robert Ronald Tepper
	Deborah Jean Gubin
	Lawrence A. Scordino
	P. Scott Neville, Jr.
	Nancy A. Donahoe
	John Joseph Downey
COOK CIRCUIT - GILLIS VACANCY	Matthew William Beaudet
	Colleen F. Sheehan
COOK CIRCUIT - GREEN VACANCY	Rodney C. Howard
	Carol J. Kenny

rify Voter

<http://www.voterinfo.net.com/vguide2.asp>

	Donna Phelps Felton
	William J. Frost
	Karen G. Shields
	Charles E. Donegan
	Ellen L. Flannigan
IT - JORDAN	Richard Anthony Stevens
	Joan Margaret O'Brien
	Robert D. Quinlivan
	Marjorie Elizabeth McCollum
T - McBRIDE VACANCY	Marcia Maras
T - MURPHY VACANCY	JoAnne Guillemette
	Michael L. McGrath
	Michael T. Healy
- QUINLAN VACANCY	Martha A. Mills
	Rosemary Grant Higgins
	Michael Thomas O'Malley
	Thomas David Roti
	Mark McGuire
	Dennis J. Burke
- SINGER VACANCY	Francis Joseph Dolan
	Janice L. Berman
	Eileen Marie Geary
	Bonnie Carol McGrath
	Click here to check whether your area has any referendums or local candidates.

Thomas R. Fitzgerald**Candidate for Supreme Court - Democrat**judge@tomfitzgerald.comwww.tomfitzgerald.com

Judge Thomas R. Fitzgerald is one of Illinois' most widely acclaimed and highly regarded jurists. Throughout his 23 years as a judge, Fitzgerald has demonstrated an unparalleled dedication to protecting the rights and liberties of the people of Cook County and advancing the quality of justice for all he has served.

For more than a decade as Presiding Judge of Cook County's Criminal Courts, Fitzgerald has helped remake the courts into one of the nation's most innovative, progressive, and fair judicial bodies. He was hand-picked to chair the Supreme Court Committee on Capital Cases, which recently presented its findings on reforms in handling death penalty cases.

In addition to being an outstanding jurist, Judge Fitzgerald has successfully tackled the judiciary's most pressing and complex administrative challenges and has launched many of Illinois' most innovative and successful reforms.

As presiding judge of Cook County's criminal courts, he has faced huge increases in the number of criminal prosecutions - with 46 judges now hearing more than 1,900 lawyers argue as many as 35,000 cases a year. However, Judge Fitzgerald has reduced the number of pending cases, lessened delays, and facilitated justice.

Facing an explosion in drug-related cases, Judge Fitzgerald has been at the fore of efforts to provide drug treatment to those with addictions while taking cases out of the overburdened courts. Working with State's Attorney Richard A. Devine, Fitzgerald initiated the nationally recognized Rehabilitation Alternative Program, which allows for defendants with previous convictions to choose between time in jail and a residential drug treatment center.

He also chairs the Cook County Principals Committee. To address the many challenges facing our criminal justice system and promote the efficient and equitable administration of justice, Fitzgerald coordinates the efforts of the State's Attorney's Office, the Sheriff's Department, the Public Defender's Office, the Illinois Department of Corrections and the Illinois Attorney General's Office.

A highly regarded law professor, Judge Fitzgerald has taught hundreds of law students over more than 20 years at The John Marshall Law School and Chicago-Kent College of Law.

Judge Fitzgerald's campaign is chaired by Dawn Clark Netsch, and his leadership team includes such notables as Jim Thompson, Jan Schakowsky, Cal Sutker, Phil Rock, Jim Montgomery, and Phil Corboy. He has received considerable support from a wide range of groups including former US attorneys, former judges, civil rights attorneys, ward and township organizations, and labor unions.

Visit www.tomfitzgerald.com for up-to-date campaign information.

Return to www.voterinfo.net.com.

REGISTER AND VOTE

- OFFICE OF -



DIRECTOR
MARLENE D. GABRIEL

LAWRENCE COUNTY VOTER REGISTRATION AND ELECTIONS

LAWRENCE COUNTY GOVERNMENT CENTER
NEW CASTLE, PENNSYLVANIA 16101-3593
(724) 656-2161
Fax (724) 656-1987
EMAIL: lcvote@pathway.net

COMMISSIONERS
ROGER M. DeCARBO
CHAIRMAN

BRIAN D. BURICK
EDWARD FOSNAUGHT

April 28, 2000



Janis K. Womack, City Secretary
630 E. Hopkins Street
San Marcos, Texas 78666

RE: Professional Practice Submission

I would like to share a beautiful experience in regards to voters in Lawrence County that have voted "50 Years" or more.

The Department of State in Pennsylvania honors voters that have voted for 50 Yrs. consecutively in November Elections. By having the counties submit the names of these voters, they receive a certificate from the state.

Here in Lawrence County, we honor everyone that has voted for 50 Yrs. or more, because maybe they could have missed a November Election and maybe voted in the Primary Elections. This way if they do vote for 50 Yrs., they get recognized by our county, and if they voted 50 consecutive years in November Elections, they get recognized by the State also. This is like a bonus recognition.

On August 20, 1998, an event was held to honor 50 year voters. Invitations were sent out to the qualifying voters. There were over four hundred voters that qualified. This meant that we would have to have a large place to accommodate so many people. Since this event would be held in August, and the weather would be nice, permission to use our Park Pavillion was granted by the mayor of our City of New Castle. The voters were encouraged to bring their families to watch them get honored.

Our Commissioners granted permission to allow us to have hot dogs, cake, and even music. By the time the reservations had to be in, we had about six hundred people attending, between the voters, their families, and legislative officials.

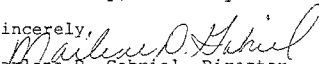
The day of the event turned out to be a bright sunshiny day, and as all the voters arrived and were checking in, it was so nice to see their excitement, and pride in being able to come and be honored. Since there were so many voters to be honored, you could not have them go up to the podium to get their certificate. The Commissioners read all their names from the lists, and as their names were read, the voter would stand up. Their certificates were handed to them when they arrived and registered their names. When the voters received their certificates, it was like you handed them a million dollars. They were so happy and proud of this great achievement, and being able to share it with their families, friends, and elected officials, made it all the more worthwhile.

After the ceremonies, refreshments were served, and music was provided for them. Everyone got to mingle with each other, and the occasion was a huge success.

This was a prime example that our older people do vote, and they take such great pride in this achievement. By giving recognition to these faithful voters, I think it brought out that these voters deserve to be honored for never missing voting. There was a lot of them that had perfect records. This made other voters aware of their voting records, and we receive calls all the time asking us to check for them, if they have voted for fifty years. The voters are looking forward to our next event, and so are we.

In closing, I am including a copy of the program. Also enclosed are pictures and write-ups from the event. This makes me feel good even writing about this event, and everyone can have these kind of events, if they just take the time and give credit to these voters that have done their duty, and always vote.

Sincerely,


Marlene D. Gabriel, Director
Voter Registration/Elections

County voters celebrate five decades at the polls

By Debbie Wachter Bonnie
New Castle News

Yesterday may have been one of the few times in history when the Lawrence County Commissioners had more than 400 people attending their meeting.

It was a special occasion, however.

About 320 senior citizens were honored during a program in the Cascade Park pavilion for having voted more than 50 years in elections in Lawrence County. Following the recognition, they were feted with a picnic lunch.

A line to enter formed outside of the pavilion shortly before 10 a.m. Voters were presented with certificates embossed with gold seals for their outstanding voting records. Each person also received a gold voter's card.

The inside of the pavilion was decorated with red, white and blue

banners, and flowers and tables were covered with white tablecloths.

The event was organized by county elections director Marlene Gabriel and her staff. They were assisted by county maintenance director Frank Piccoli and his staff.

Gabriel said the county has nearly 1,000 voters who have been casting their ballots for 50 or more years.

Some people have been voting for as long as 63 years.

"Throughout our 200-year history, American men and women have died to protect our right to vote," said Commissioner chairman Thomas J. Pec. "African-Americans and women have sought constitutional amendments to guarantee their right ... Young people have lobbied to be eligible at 18. And yet, only one in five people eligible to vote actually cast their ballot on

Please see VOTERS, page 6



Voters with more than 50 years of perfect attendance line up for hotdogs and cake after being recognized by the county commissioners in the pavilion at Cascade Park yesterday. Matthew S. High/NEWS

Voters

From page 1

Fee said the right to vote "is the single most powerful tool in our democracy. It is the difference between tyranny and freedom."

Dale and Frances Currie of Shenando Township have voted for more than 60 years. Currie noted that he and his wife will celebrate their 65th wedding anniversary next week.

The program opened with the presentation of colors and pledge of allegiance by seven members of the New Castle Honor Guard.

The national anthem was sung by Common Bond, an a cappella all-male quartet.

The Rev. Joseph Langston gave the invocation. Mayor Tim Fulkerson presented Gabriel with the Third Class city award for New

Castle having the highest voter turnout in November 1997.

The three commissioners then called the names of every voter in attendance.

Also present were state Rep. Chris Sainato, state Sen. Gerald LaValle and other elected county officials.

Gabriel got the idea for the event from the state government, which is hosting its own "Voter's Hall of Fame," honoring people who have voted for more than 50 years in general elections.

Gabriel has been asked to register the county recipients so that they may later receive an award from the state.

Those awards will most likely be sent to the voters by mail, she said.

5/27/97

Ledger - 8/22/98

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Voters recognized



In recognition of Lawrence County residents who have voted in elections for the past 50 years, a program was held Thursday at the Cascade Park pavilion in New Castle. The program featured a presentation of colors by the New Castle Honor Guard. *The Star-Spangled Banner* was performed by The Common Bond, and the Honor Guard said the pledge of allegiance. The Rev. Joseph Langston offered the invocation. The Lawrence County commissioners recognized the voters, as did New Castle Mayor Tim Fulkerson. A roll call of the 500 voters in attendance was recited by the Lawrence County commissioners.





John Katsadas, left, and Connie MacDonald prepared hot dogs for the 500, 50-year voters in attendance at Cascade Park for recognition ceremonies Thursday. (Ledger Photo by Nathan Paraska)

7/2-198

Brevard County, Florida, Supervisor of Elections

Fred D. Galley

Application of Operations Analysis in a Mail Ballot Election

Task:

The Brevard Supervisor of Elections (SOE) was charged by the County Commission with conducting a mail ballot election in support of a Sheriff's bond issue. An estimated 125,000 voters were eligible to participate, 400% larger than any absentee or mail ballot operation ever previously performed. Application of approved list management procedures reduced election notices required to approximately 118,000. The election represented a challenging, labor intensive, time sensitive task for the office.

General:

By identifying all tasks involved and applying sound Operations Analysis¹ principles, the office was able to meet all critical deadlines (overseas and local notice/ballot mailings, certification of signatures, and preparation for ballot canvassing by the County Canvassing Board) and handle the large volume of outgoing and return mail. In spite of a hurricane that disrupted the election process, the 50% ballot return was effectively processed and the election closed out on the deferred date established by the Governor.

At an early planning session, tasks were identified to:

- 1) Accomplish established election processes
- 2) Acquire materials
- 3) Ensure equipment availability
- 4) Establish personnel requirements and manning schedules.

Previous experience with small mail ballot elections and absentee ballot returns helped establish election notice/ballot numbers and ordering schedules. As each task – preparation of notices (to include addressing/folding), preparation of ballots (insertion of ballots/secretary envelopes/certificate envelopes into mailing envelopes), and return of ballots (verification of signatures, sorting for Canvassing Board approval, ballot canvassing) – was begun, machine/manual hourly and daily rates were established.

Using "average rates" for machine operations, the number of machines required (for instance, two addressing machines in order to meet time constraints for mailings) and schedules of operation for each task were established. This allowed the office to determine if overtime was needed for operators, manual backup (personnel) was required for machines, and milestones could be met on time. The ability to accurately determine numbers and work schedules of employees to meet required tasks minimized costs.

"Average rates" for accomplishing manual tasks (ballot insertions, signature verification) ensured sufficient experienced personnel were available to meet mandatory targets (mailing dates, for instance) and to accomplish all tasks without excessive temporary help or unnecessary staff overtime.

Processing, sequencing, and storage of 283,000 mail ballot pieces and over 500,000 pieces of material² posed space, time, and physical handling challenges. Requirement analyses, key staff³ discussions, and creative thinking developed a mobile multi-shelved rack handling system. With skillful planning, careful sequencing, and adequate personnel, the mobile rack system (MRS) solved storage, time, and physical handling difficulties. Election notices, for instance, were placed in postal trays and delivered on racks to the addressing machines. After being addressed, they were wheeled to the folding room. Once folded, they were returned to postal trays on the racks. The racks were stored until the mailing date.⁴ The racks were then shrink-wrapped and the mailings transported to the Post Office in leased trucks.

¹ Operations Analysis is a derivation of a Department of Defense management technique that reviews the elements of a task, applies time and motion principles to the tasks, and derives the most effective, efficient means of accomplishing the tasks.

² In addition to the 117,000 election notices and 111,000 ballots, there were 111,000 each secrecy, certificate, and mailing envelopes. These had to be addressed, folded, inserted, and transported to the postal service for mailing.

³ Mary Little, Absentee Ballot Specialist; and Jane Engel, Elections AB Specialist; were the primary administrators for the election. Clint Branch managed Voter Registration actions; Lee White directed Tabulating Room operations; Gary Regner directed logistical support; and Gene Davis, Assistant Supervisor, TQM, assisted with planning and procedural development.

⁴ Given the large volume of mailings required on a specific days, special arrangements were made with the postal service to deliver the mailings on those dates. By consolidating the mailings, a truck could be rented for a single day, again minimizing costs.

Brevard County, Florida, Supervisor of Elections

Fred D. Galey

Election Procedures:

Election procedures required a multi-task effort to identify eligible voters, ensure eligible voters received ballots, ensure only eligible voters voted, and that the results of the election were properly tabulated and certified. As mentioned, Hurricane Floyd imposed additional requirements to ensure fairness to all voters. The following were accomplished:

Election Notices	Ballot Preparation (Mailing)	Ballot Return
<ul style="list-style-type: none"> ◆ Preparation of Notices ◆ Mailing of Notices ◆ Return of Notices ◆ Address Confirmations (Inactivation Process) 	<ul style="list-style-type: none"> ◆ Ballot/Certificate Batching ◆ Certificate Envelope Addressing ◆ Ballot/Certificate Insertions ◆ Mailing Envelope Sealing ◆ Ineligible/New Voter ID ◆ Voter Address Updates ◆ Ballot Mailing 	<ul style="list-style-type: none"> ◆ Signature/Residence verification ◆ "Lost" Ballot Replacements ◆ Address Confirmations – Ballots Returned by Postal Service ◆ Extension of Receipt of Ballots Other <ul style="list-style-type: none"> ◆ Emergency Result Tabulation ◆ Result Tabulation/Certification

Equipment Requirements:

Specialized equipment was required for addressing notices and mailing envelopes; folding and tabbing notices; inserting ballots/security envelopes into certificate and mailing envelopes; sealing mailing envelopes; and tabulating ballots. Ratings were established for all machine processing to allow reasonable projections for task completions and personnel needs. Illustrative rates are shown below:

NOMINAL MACHINE RATES

Equipment	Items	Per Hour	Per Day	Time to Complete*
Addresser 1	Notices	2,100	16,800	33.4 Hours
Addresser 2	Certificate Env.	1,200	9,600	37 Hours
Folder	Notices	15,000	120,000	7.8 Hours
Insertor	Bal/Cert/Mailer	1,500	12,000	74 Hours

* See backup material for number of pieces processed

Personnel Requirements:

Staff and temporary hire personnel were used. Over 2,000 election staff hours, including overtime, were required. There were 950 temporary hours expended. Several processes required specific knowledge/experience (registration file management/ballot accountability, tabulating machine operations) suggesting use of staff personnel while others (batching, insertions) could be accomplished with temporary help and minimum personnel training. Personnel rates are shown:

NOMINAL PERSONNEL ACTION RATES

Task	Item	Per Hour	Per Day	Hours to Complete
Batching/Sec. Env.	111,056 Envelopes	465	3720	239
Insert Bal/Cert - in Env.	111,056 Ballots	200	1600	555
Signature Checks	55,479 Ballots	120	960	462.3
Canvassing	52,451 Ballots	408	3,264	136

Summary:

Faced with a challenging task of greater dimensions than ever previously required of the SOE in a mail ballot election, we employed a sound management technique (Operations Analysis), past experience, and ingenuity (development of the MRS) to overcome concerns about space, time constraints, physical stress, and cost considerations. It is estimated that a 20% cost savings was provided in the operation.

Despite the intercession of a major hurricane, we effectively and efficiently conducted and successfully concluded the largest mail ballot election ever in Brevard County. The machine and personnel rates are proving useful for ongoing election requirements. The Mobile Rack System is so effective that we have incorporated the concept into all of our regular operations. While many approaches to problem solving are possible, the salient point of our exercise is that Prior Planning Provides Peak Performance.

Brevard Supervisor of Elections
 Sheriff's Mail Election Ad Valorem Tax Increase

**Application of Operations Analysis
 in a Mail Ballot Election**

GENERAL

A mail ballot election was held under provisions of section 101.6101, *Florida Election Laws*, for the Brevard County Sheriff for a "Requested Increase in Law Enforcement Municipal Services Taxing Unit Ad Valorem Tax Millage Rate." The original closing date was September 14, 1999. (See Figure 1.)

An estimated 125,00 voters were eligible to receive ballots. Clarifications eliminated West Melbourne and Precinct 999¹ as voters. Notices of the Mail Ballot Election (MBE) went to 117,871 registered voters, to include 2,843 military/civilian overseas (42% of the registered voters of the county). A total of 114,427 civilian notices were CASS² certified resulting in a \$6,159.41 savings. Ballots were mailed to 111,056 voters, including overseas, addressees temporarily outside the county, and electors in the county. Voters returned 55,477 ballots.

Hurricane Floyd was an unanticipated problem that disrupted the election process in Brevard County. Election offices were closed on Tuesday, September 14 and Wednesday, September 15, 1999. The election was postponed from September 14 until September 21, 1999, by order of the Governor, Jeb Bush.

ELECTION PROCEDURES

Election procedures required a multi-task effort to identify eligible voters, ensure they received ballots, ensure ineligible voters did not vote, and that results were properly tabulated and certified. The following were accomplished:

Election Notices	Ballot Preparation (Mailing)	Ballot Return
<ul style="list-style-type: none"> ♦ Eligible Voter Identification ♦ Preparation of Notices ♦ Mailing of Notices ♦ Return of Notices ♦ Address Confirmations (Inactivation Process) 	<ul style="list-style-type: none"> ♦ Ballot/Certificate Batching ♦ Certificate Envelope Printing ♦ Ballot/Certificate Insertions ♦ Mailing Envelope Sealing ♦ Ineligible/New Voter ID ♦ Address Updates ♦ Ballot Mailing 	<ul style="list-style-type: none"> ♦ Verify Signature/Residence ♦ "Lost" Ballot Replacements ♦ Address Confirmations – Ballots Returned by Postal Service ♦ Extension of Receipt of Ballots Other <ul style="list-style-type: none"> ♦ Emergency Result Tabulation ♦ Result Tabulation/Certification

Election Notices

Processing of Postal Service (PS) "undeliverable" forms and voter change of address notices assisted in voter file management. Voters who moved out of the unincorporated area became "ineligible." Undeliverable notices triggered NVRA procedures to remove individuals from the active voter rolls.

Notices were CASS certified/mailed, resulting in a savings of \$6,159.41. Since postage was paid to send and return ballots to the voters, a savings of \$.74 was realized in postage for each ballot not sent and returned. The difference in notices sent and ballots sent represented a potential savings of \$5,043.³

Ballot Preparation for Mailing

The ballot was a single Datavote ballot card. For better quality control and ballot accounting, voter lists and ballots were "batched" in lots of 50. Once election materials were received, the first task was to batch secrecy envelopes in lots of 50. Six Supervisor staff and a temporary worker took 4.7 days to complete the batching.

Next, ballots were separated into lots of 50 and inserted into secrecy envelopes. This process was accomplished in 7 days using 8 workers. Batched envelopes were placed in Postal Service trays and stored on mobile racks.⁴ Voter rolls were continually updated. Eligible voter lists were divided into five page, 300

¹ Precinct 999 is for registered voters who travel (motor homes) or for other reasons do not have a permanent/resident Brevard address. These individuals vote by absentee.

² CASS – Coding Accuracy Support System – the PS allows discounts for sorting mailings by zip codes.

³ To realize full savings, all additional ballots would have to be sent and returned. Not sending the additional ballots saved \$2,249 dollars. Assuming a 50% ballot return rate, a \$1,397 expense was avoided as a result of effective list management procedures.

⁴ The use of mobile aluminum racks, adapted to accommodate 35 or 40 Postal Service trays, was developed specifically for the mail election. It provided mobility, reduced workload, easy storage, improved

Brevard Supervisor of Elections
 Sheriff's Mail Election Ad Valorem Tax Increase

name segments to match PS tray capacity. Certificate envelopes were mated with ballots and placed in mailing envelopes. The insertion process took 9.25 days using both the insertion machine and staff/temporary personnel. The 111,000 mailed ballots required 4.5 days to seal using a mailing machine.

Mailings

The 491 overseas military and civilian ballot mailing date was August 10, 1999. The principle ballot mailing date was August 25, 1999. Supplemental mailings were accomplished. Outgoing mail for the principle mailing was CASS certified, resulting in savings of \$9,208.49 over regular mail costs.

Ballot Returns

Returned ballots were checked for signature/residence address in accordance (IAW) with F.S. 101.6103(3). The Canvassing Board viewed questionable ballots⁵ and rejected those not meeting legal requirements. Electors were provided replacements for ballots destroyed, spoiled, lost, or not received. The Governor's deferral of the election closing until September 21, 1999 allowed ballots returned to the Viera Election Office prior to 7 p.m. on that date to be canvassed and counted.

Ballot Tabulation/Certification

Normal election canvassing and tabulation procedures began on Friday, September 10, 1999. Hurricane Floyd, however caused modification of normal procedures. The Canvassing Board provided oversight throughout -- to include the postponement period caused by the state of emergency.

Given the emergency, a count of received ballots was conducted on Monday, September 13, 1999, and placed on a disk -- after approval by the Canvassing Board. The disk was secured in a vault and results were not disclosed. A total of 52,451 votes were counted. Just over three thousand ballots were rejected. Results were certified IAW F.S. 102. Canvassing required 435 staff and temporary hours.

MATERIAL REQUIREMENTS

Required materials were Election Notification Cards, Ballots, Secrecy Envelopes, Certificate Envelopes, Mailing Envelopes, and associated support material (rubber bands, etc). As previously mentioned, aluminum racks, modified to accommodate 35 or 40 Postal Service mailing trays, were used to assemble, transport, and store the final mailing envelopes. The Postal Service provided the 385 trays and covers necessary for the project. The racks facilitated maneuvering of ballots in and out of working areas. Support personnel used the racks to transport all mailings the Post Office, dramatically reducing time and manual labor in loading and unloading the 1.5 tons of mail generated.

EQUIPMENT REQUIREMENTS

Specialized equipment was required for addressing notices/envelopes; folding/tapping notices; inserting (ballots/security/certificate/mailling envelopes); sealing envelopes; and tabulating ballots. The machine ratings that were developed permitted accurate projections for task completions/personnel needs.

The size of the election strained equipment and required "rest periods" for various machines. This, in turn, added personnel hours to make up for downtime on the machines. Several machines, particularly addressing machines, were critical to operations.

PERSONNEL REQUIREMENTS

Personnel were required to:

♦ Refine the voter registration files	♦ Adjust mailing for voter changes (address changes, etc.)
♦ Prepare voter listings for mailing	♦ Receive/provide accountability for ballots
♦ Accomplish secrecy/certificate envelope/ballot batching	♦ Remove voter from mailing if changed to ineligible
♦ Operate machines	♦ Check signatures/addresses
♦ Canvass ballots	♦ Supervise all operations

Staff personnel and temporary hire personnel were used. This project required over 2,000 staff hours (including overtime) and 950 temporary hours. Some processes required specific knowledge and

processing of ballots/envelopes, and enhanced ballot security -- since loaded racks could be moved to working areas, then quickly placed in vaulted (security) areas at the end of the workday.

⁵ Errors included: No signature, No resident address, Questionable signatures.

Brevard Supervisor of Elections
 Sheriff's Mail Election Ad Valorem Tax Increase

NOMINAL MACHINE RATES

Equipment	Items	Per Hour	Per Day	Time to Complete
Addresser 1	Notices	2,100	16,800	33.4 Hours*
Addresser 2	Notices	1,400	11,200	33.4 Hours*
Addresser 1	Certificate Env.	1,800	14,400	37 Hours**
Addresser 2	Certificate Env.	1,200	9,600	37 Hours**
Folder	Notices	15,000	120,000	7.8 Hours#
Tabber	Notices	9,000	72,000	13 Hours#
Inserter	Bal/Cert/Mailer	1,500	12,000	74 Hours##
Sealer	Mailer Env.	3,000	24,000	37 Hours***
Env. Opener	Return Ballots	5,200	41,600	10.7 Hours###
Tabulator	Ballots	5,000 (est.)	52,451	2.1 Hours!

* Time for both machines to process 117,000 notices (1 operator)

** Time for both machines to process 111,056 certificate envelopes (1 operator)

Time for machine to process 117,000 notices (2 operators)

Time to insert 111,056 ballots/certificate envelopes, mailing envelopes (2 operators)

*** Time to seal 111,056 mailing envelopes (2 operators)

Time to open 52,451 return ballot envelopes, (2 machines, 4 operators)

! Time to tabulate 52,451 ballots. Estimated machine time = 5,000 Hour. (5 machines, 5 operators)

NOMINAL PERSONNEL ACTION RATES

Task	Item	Per Hour	Per Day	Hours to Complete
Batching/Sec. Env.	111,056 Envelopes	465	3720	239*
Ballots in Sec Env.	111,056 Ballots	245	1960	453**
Ballots/Cert. in Mailing Envelope	111,056 Ballots	200	1600	555#
Signature Checks	55,479 Ballots	120	960	462.3##
Canvassing	52,451 Ballots	408	3,264	136***

* Time to batch 111,056 security envelopes in 50 lot bunches -- Total hours to complete

** Time to insert 111,056 ballots into security envelopes

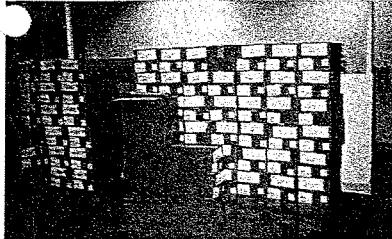
Time to insert ballot/security envelopes into certificate envelope into mailing envelope

Time to check signatures on returned certificate envelopes, total returned 55,477 ballots

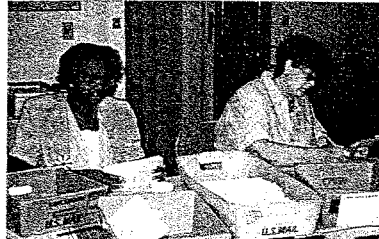
*** Time to canvass the 52,451 ballots which were allowed.

Brevard County Florida

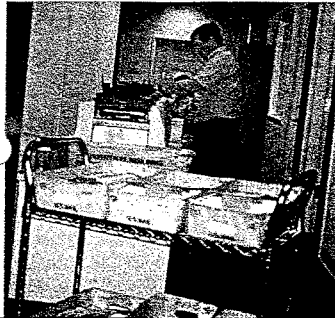
Supervisor of Elections, Sheriff's Mail Ballot Election



Time, space, and physical handling of materials were critical elements. Shown here are a portion of the over 1/2 million elements of the mail ballot election



Mary Little and Jane Engel, Absentee Ballot Specialists, had the lead in administering the Mail Ballot Election. Their efforts ensured excellent accountability and timeliness.



Gene Davis, Asst. Supervisor, TQM, was responsible for developing the people and machine "rates" that ensured the proper amount of personnel and "on-time" actions.



Development of the Mobile Rack System (MRS) was an innovation that provided the flexibility and responsiveness that led to a successful election. Mary Mullins (L), Mary Little (M), and Nancy McMahon (R) manage the assembly of outgoing ballot mailings.



Mary checks the progress of the secrecy envelope "batching" before mailing with the ballots for mailing.



Brian Lloyd of the Elections Support Center prepares to "shrink wrap" some of the 111,056 ballots that were mailed.

Brevard County Florida
 Supervisor of Elections, Sheriff's Mail Ballot Election



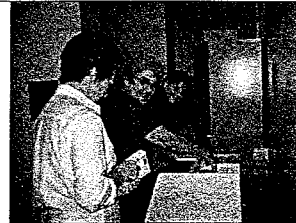
The MRS proved to be labor saving, time saving, and versatile. Rita Shader is shown assisting Gary Regner, who directs Support Center Operations, and Brian in navigating the entryway to the Election's Office.



Fred Galey, the Brevard County Supervisor of Elections, works with Gary and Brian in arranging the transportation of the ballots to the US Postal Service.



Election employee Karen Frey checks the voter signature on one of the 55,477 ballots returned in the mail election.



Temporary employees Virginia Blanchard and Carolyn Wurzenberger join Karen to open incoming envelopes.



Supervisor employees perform traditional ballot card inspection before running through the tabulating machines.



Supervisor Galey supervises the canvassing of ballot cards. In spite of the intervention of Hurricane Floyd, the election was successfully concluded.

Wake County Board of Elections

339 S. SALISBURY STREET
PO BOX 695
RALEIGH, NORTH CAROLINA 27602-0695

(919) 856-6240

FAX (919) 856-5864

April 3, 2000

Ms. Janis K. Womack
City Secretary
630 E. Hopkins Street
San Marcos, Texas 78666

Re: Professional Practice Paper - Wake County Board of Elections Poll Book Design

Dear Janis:

I am submitting an example of the Wake County Board of Elections poll book for the Professional Practices Committee to review. Our poll book utilizes the concept of "peel off" labels.

Attached are examples of the front of a poll book, a page inside the book, and an Authorization to Vote with one of the labels adhered. A separate sheet listing the advantages of this design is also enclosed.

If anyone is interested in using this type of poll book, we would be more than willing to share the appropriate pages in our instruction manual.

Sincerely,



Cherie R. Poucher
Director

P.S. I am enclosing a sample of the actual book, which you can display if you wish.

Poll Book Design - Wake County Board of Elections, Raleigh, North Carolina

The poll book page is divided into a permanent side that remains in the book and immediately to the right - a peel-off label.

The peel off label, 3" x 1 ½", includes the following information:

1. Bar code indicating voter's serial number
2. Printed serial number of voter
3. Date of the election
4. First three letters of the municipality or the letters "UNC" (residence address not within the city limits)
5. Precinct number
6. Voter's party affiliation
7. Correct ballot style number
8. "Inactive" (signifies the Board of Elections needs a current address because mailings were sent to the voter and returned by the post office)
9. Name and address of voter

Additional information on the permanent side of the poll book includes all of the above plus:

10. Date of Birth
11. Race and Gender

Advantages for the Election Officials

- Lay out of the poll book is "User Friendly"
- Ballot style is already determined
- Minimizes the work of the poll worker at the registration table to:
 1. Asking the voter his/her present name and address
 2. Locating the voter's name in the poll book
 3. Peeling off the label and sticking the label on the Authorization to Vote
 4. Copying only the ballot style and precinct shown on the label to the Authorization to Vote
 5. Informing the voter to go to the "Ballot Distribution Table" or "Verification Table" if voter information is not current
 6. Marking the letter "A" on the label indicating the voter's name was on the absentee voter list

Advantages for the Voter

- Minimizes the time a voter spends at the registration table
- Ensures accuracy of being given a correct ballot style
- Ensures the integrity of an election

Advantages for the Board of Elections

- Enables voters to notice if any portion of their registration needs updating or correcting
- Less questions and phone calls from election officials on election day
- Voter history can be updated in a timely fashion
- Poll books are bound allowing for easier referencing, packing and storing

Example 1

POLL LIST

12-02

WAKE COUNTY

BOARD OF ELECTIONS

POLL LIST

MUNICIPAL ELECTIONS
&
RALEIGH CITY COUNCIL
&
BOARD OF EDUCATION
RUNOFF


NOVEMBER 2, 1999

Example 2

WAKE COUNTY BOARD OF ELECTIONS MUNICIPAL ELECTIONS & RALEIGH CITY COUNCIL & BOARD OF EDUCATION RUNOFF PRECINCT 12-02 POLL LIST						
Date: November 2, 1999		Page: 231		of: 692		
NAME/ADDRESS	SERIAL NO	MUNI	DOB	GENDER/ RACE	PARTY	LABEL
 000010398121 UNC GRAY, HOLLY L 7533 TROY STONE DR FUQUAY VARINA, NC 27526			12/15/1964	F/W	REP	 Nov 2, 1999 UNC 12-02 000010398121 REP Ballot# 9 GRAY, HOLLY L 7533 TROY STONE DR FUQUAY VARINA, NC 27526
 000010382864 FUQ GRAY, JASON N 507 E SPRING ST FUQUAY VARINA, NC 27526			08/11/1978	M/W	REP	 Nov 2, 1999 FUQ 12-02 000010382864 REP Ballot# 7 GRAY, JASON N 507 E SPRING ST FUQUAY VARINA, NC 27526
 000003154200 FUQ GRAY, PEGGY G 647 AIKEN PKWY FUQUAY VARINA, NC 27526			05/07/1933	F/W	DEM	
 000009940318 FUQ GRAY, RANDY J 218 BALLENTINE ST FUQUAY VARINA, NC 27526			08/23/1955	M/W	REP	 Nov 2, 1999 FUQ 12-02 000009940318 REP Ballot# 7 GRAY, RANDY J 218 BALLENTINE ST FUQUAY VARINA, NC 27526
 000008313860 UNC GREEN, JUDY W 605 KIPSKIN CT FUQUAY VARINA, NC 27526			10/02/1949	F/W	DEM	 Nov 2, 1999 UNC 12-02 000008313860 DEM Ballot# 9 GREEN, JUDY W 605 KIPSKIN CT FUQUAY VARINA, NC 27526 PO BOX 85 27592

Example 3

bel
am
Book

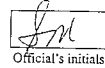
AUTHORIZATION TO VOTE			
			
Nov 2, 1999	UNC	12-02	
000010342525	UNA	Ballot# 9	
HOOTS, ELLEN T 1417 ANDERSONWOOD DR FUGUAY VARINA, NC 27526			

 NO: 838
 BALLOT STYLE: 9

 If voter's status is
INACTIVE
 Voter must go to verification table

I hereby verify the address listed on the above label is my current residence address. I understand that, if I have moved from this address more than 30 days ago, it is a violation of NC law to claim this as my voting address.

Signature of Voter (optional)


 Official's initials

NEW ADDRESS/NAME CHANGE
 OR
 ADDRESS VERIFICATION FOR INACTIVE STATUS

Voter's Name (Please print)		Former Name, if name change	
Voter's New Residence Address: Street		Apt. #	
City		State Zip	
Address where you get your mail, if different		New Political Party Affiliation	
Daytime phone: _____		Date of Birth: _____	
Signature of Voter: _____		PRECINCT/MUN: _____	
ELECTION DAY TRANSFER			
This person has not voted this date _____ in this precinct _____ and hereby requests that he/she be permitted to vote after executing the required election day transfer.			
New Precinct: _____		Polling Place: _____	
Precinct Official's Signature		Address: _____	

THIS ENTIRE AUTHORIZATION FORM MUST BE TAKEN TO THE VOTER'S NEW PRECINCT

Wake County Board of Elections

PROFESSIONAL PRACTICES PAPER

SUBMITTED BY: Conny McCormack, Registrar-Recorder/County Clerk for Los Angeles County, 12400 Imperial Highway, Norwalk, CA 90650 (562) 462-2716

WHAT: Produce a comprehensive Election Information Guide prior to each major election. Disseminate to media, elected officials, political party headquarters, community organizations and other identified citizens interested in this information.

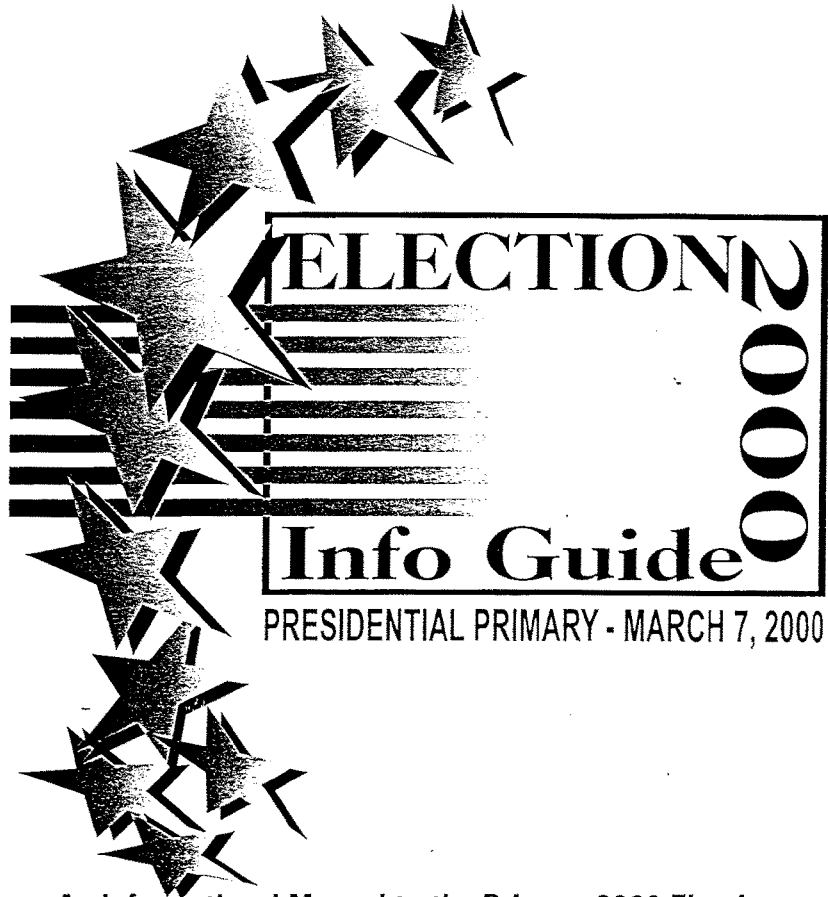
WHY: To provide members of the media, community organizations, political campaigns and all interested citizens with "everything they always wanted to know about elections, but were (perhaps?) afraid to ask" or could not find in one document.

WHEN: Produce and distribute 3-4 weeks prior to each major election.

FORMAT: Hard copy and on the Internet at the department's website – <http://regrec.co.la.ca.us>

CONTENTS: Information on what is on the ballot for the upcoming election, including candidates and ballot propositions; historical trend information regarding voter registration and turnout for past similar elections; description of what is unique or newly instituted for this election (for example, a new student poll worker program or a new voter file purge process); what type(s) of technology is used to conduct the election; how to get voting results on election night; when the election results will be certified as official; answers to most frequently asked questions regarding election administration such as why has my polling place changed, how do I get a ballot by mail, what provisions are made for voters with disabilities, etc.

VALUE: Immeasurable! The media, elected officials (including your bosses for those election administrators who are not elected), political parties, community organizations and many other citizens have showered us with praise for producing this comprehensive guide to each election. It demystifies the electoral process. Try it. You will be glad that you did.



An Informational Manual to the Primary 2000 Election
For Media, Community Organizations and Interested Citizens.

LOS ANGELES COUNTY
REGISTRAR-RECORDER/COUNTY CLERK
CONNY B. McCORMACK
REGISTRAR-RECORDER/COUNTY CLERK



COUNTY OF LOS ANGELES
REGISTRAR-RECORDER/COUNTY CLERK

12400 IMPERIAL HWY. - P.O. BOX 1024, NORWALK, CALIFORNIA 90651-1024(562) 462-2716

CONNOR B. MCCORMACK
 REGISTRAR-RECORDER/COUNTY CLERK

February 2000

TO: MEDIA, ELECTION OBSERVERS AND
 OTHER INTERESTED INDIVIDUALS

FROM: Conny B. McCormack, Registrar-Recorder/County Clerk *CBC*

ELECTION 2000 INFO GUIDE (FOR MARCH 7TH PRIMARY ELECTION)

We are pleased to present the March 7th Primary "Election 2000 Info Guide". Formerly called the "Media Kit", this guide contains information on candidates and measures, trends in voter registration and turnout and a wealth of other interesting information and statistical comparisons. It also includes information on how to get up-to-the-minute election results. The *Election 2000 Info Guide* has become an invaluable source on "Everything you always wanted to know about major elections but were afraid to ask"!

Akin to a major military deployment – The logistics of administering a statewide election in Los Angeles County is without equal. This election involved processing paperwork for 639 candidates, recruiting 24,630 poll workers, registering and re-registering 100,000 voters on the deadline, and mailing sample ballot booklets to 3.8 million registered voters. It will culminate in counting an anticipated 1.5 million ballots cast at 4,926 voting locations (approximately 400,000 are expected to be voted via the absentee mail ballot process).

What's New?

- **Earliest California Primary Ever:** Four years ago, California changed the traditional June Primary Election date to late March to provide the state's voters with a greater role in the presidential nomination process. But in 1996, late March was too late to influence the presidential nominating process as the number of delegates needed for nomination was reached prior to California's March 26th date. Therefore, the state legislature moved California's election date for the 2000 Primary to March 7th to assure Californians a greater voice in the presidential nominee selection process. California's delegate count constitutes approximately 20% of the number needed to select the presidential nominees of each major political party.
- **It's "Open":** When Californians go to the polls on March 7th, it will be the first open primary in a presidential election year. The open or "blanket" primary allows all registered voters, regardless of the political affiliation or non-affiliation of the voter, to cross over and cast votes for any political parties' candidates. However, because the national political parties have the option of accepting only the votes cast by members of their parties to determine delegate selection for the presidential nominees at their national conventions, the state legislature passed Senate Bill (SB) 100 last year.

This legislation, known as “vote once/count twice,” is effective for the March 7th Primary. Voters will vote once but county election officials will tally the presidential votes in two ways: 1) overall and 2) by political party affiliation. The decision of which vote totals to use in selecting the Democratic and Republican presidential nominees is up to the political parties at their conventions.

- **More Accurate Voter File:** Last month we finalized a voter file clean-up project, which resulted in a reduction of 300,362 active registered voters. Consequently, the voter file in Los Angeles County was decreased by 7.4% from 4,034,844 to 3,734,482. This elimination of “deadwood” will save approximately \$250,000 in sample ballot printing and mailing costs for the 2000 elections. Additionally, a cleaner voter file will result in more accurate voter turnout statistics.
- **Increased \$ for Poll Workers:** In September 1999, the Board of Supervisors approved an increase in the stipend for election day poll workers (from \$55 to \$75 for Inspectors and from \$45 to \$55 for Clerks). Additionally, a \$25 bonus was approved for Inspectors and Clerks who attend one of the 300 training classes prior to each election. Training is essential due to the increasingly complex rules of election administration at the precincts. Even with the larger stipend, poll workers are still volunteering their time due to the 14-15 hours of service required on election day and 2+ hours of formal training and preparation.

Important Websites. For a wealth of information, check out our department’s website (www.co.la.ca.us/regrec) and the Secretary of State’s website (www.ss.ca.gov). Up-to-the-minute statewide election results will be available election night at www.vote2000.ss.ca.gov while Los Angeles County’s results will be accessible at www.lavote.net.

If you have questions or items you would like to see in future election info guides, please write a letter, send an email (cmccorma@co.la.ca.us) or call (562) 462-2716 to let me know your thoughts. Working together, we can make the electoral process more understandable to the voters of Los Angeles County.

TABLE OF CONTENTS

	<u>PAGE</u>
Important Phone Numbers	1
What's New and Improved	
• Earliest California Primary Ever.....	3
• First "Open" Presidential Primary in California.....	3
• Voting in an Open Primary (flyer)	3
• More Accurate Voter File.....	3
• Increased \$ for Pollworkers.....	3
• Pollworker Recruiting and Training Enhancements	5
• Poll Location Inquiry By Telephone.....	5
About Our Department and Programs	
• General Information.....	6
• A Statistical Overview – 2000 Primary.....	6
• Absentee Ballot Information (How To, Trends, Counting).....	7
• Departmental Organization Charts.....	8
• Democracy In Action Programs.....	10
• Check Out Our Website!.....	12
Election Statistics	
• A Statistical Overview.....	13
• Voter Registration Statistics.....	13
• Historical Voter Registration and Turnout.....	14
• Historical Absentee Voter Requests.....	15
• Historical Absentee Ballots Cast Information.....	16
• Absentee Ballot Counting - Times When Counted.....	16
• Speed of Ballot Counting Election Night – Historical Trends.	17
• Elections Costs.....	17
Preparing For The Election	
• Precinct Officers and Polling Places.....	18
• Sample Ballot Booklet.....	19
• New Citizen Voting Procedures.....	19
What's On The Ballot?	
• Qualifications and Terms of Office.....	20
• Votes Required to Elect Candidates.....	21
• Summary of Measures, Candidates and Offices on the Ballot.....	22
• Summary of Partisan Candidates on Ballot.....	22
• Candidates, Voting Precincts and Registration by	
• Partisan Office	23
• Summary of Non-Partisan Candidates on Ballot.....	25

- Candidates, Voting Precincts and Registration by
- Non-Partisan Office.....25
- Placement and Rotation of Candidates' Names on Ballot.....26
- Measures Appearing on Ballot.....28

Election Day/Night

- Speed of Ballot Counting Election Night – Historical Trends33
- Election Costs33
- How do the Ballots Get to Norwalk?..... 33
- Voting and Ballot Processing Flow Chart35
- Absentee Ballot Counting - Times When Counted36
- Incomplete Ballot Counting Election Night37
- How to Read Election Results Bulletin39

Wrapping Up The Election/Canvass

- What is the Vote Canvass?41
- Canvass Schedule.....42
- Requesting a Recount.....43

Most Commonly Asked Questions

- What is a Provisional Ballot and Why do They
Take so Long to Process After Each Election?.....47
- Why are the Phones so Busy at the Registrar's
Office on Election Day?47
- Why Has My Voting Location Changed?.....48
- Are There any Safeguards in the Vote Tally System
to guard against fraud?48
- What Provisions are Made for Voters with Disabilities?49
- What Provisions are Made for Multilingual Voters?50
- Common Questions about Absentee Ballots, Registration
and Voting51

Future Elections

- Schedule of Future Elections60



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STATE BOARD OF ELECTIONS

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Helena Moses Donohue
Commissioner
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Thomas R. Wilkey
Executive Director
Peter S. Kosinski
Deputy Executive Director

May 1, 2000

Hon. Janis Womack
City Secretary
630 East Hopkins Street
San Marcos, Texas 78666



Dear Ms. Womack;

The New York State Board of Elections, after much hard work and with great pride, is pleased to present its' GUIDE TO OPERATING A COUNTY BOARD OF ELECTIONS, for consideration by the review committee of the Election Center's Professional Practices Project.

This GUIDE did indeed have a predecessor, by way of a Commissioner's Manual, which was approximately twenty-five years old, and had never been updated. In New York State, elections are administered at the county level, by two Commissioners, one from each of the 2 major political parties. The Election Operations Unit at the State Board has oversight and support responsibilities for all of our County Boards, and works diligently to help ensure that the Counties and the State continue to work together, in the name of fair elections. Thus, a real need for updating was had heretofore been the Commissioners' only resource, was identified.

In light of the excellent cooperative working relationship between County and State, the update of the existing handbook took on a new focus. The concept of creating a user manual which was reader-friendly, election-specific, and task-oriented, became a true mission. Staff reviewed the existing handbook at length, to ensure that topics remained timely, to eliminate those that were not, and to add those which had, in some cases, not even existed - always with an eye toward enhancing the contents with new statutory obligations, National Voter Registration Act responsibilities and other aspects of election administration.

The New York State Board of Elections is dedicated to training and implementation initiatives which are easily understood, and thus, easily implemented. The loose-leaf notebook presentation of the GUIDE lends itself to easily-interchangeable updates. The 'flavor' of the GUIDE further reflects the commitment of the State Board, particularly in its

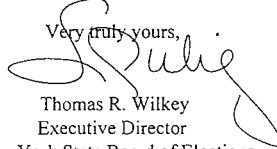
language. The language of the GUIDE is intended to be understood by any reader, regardless of their level of familiarity with the world of elections. Unique terms are defined at the beginning of each chapter, along with specific and related references to Election Law. Cross references, when necessary, are clearly identified. Of particular note are the resource pages, which are a quick reference for Commissioners, and also the appendices. Sample forms are provided, which can be easily removed for updates, copying, faxing or other distribution. The GUIDE received its first update earlier this year, to ensure that date requirements on the forms provided were made 'year-neutral', to avoid the filing or other use of documents with altered date fields.

This GUIDE was conceived as a living document - one which could and would change, as necessary, to keep pace with the ever-changing dynamics of election administration. Commissioners were encouraged to use the GUIDE as a basis for a procedures manual, and a number of them have increased its' usefulness by moving it to a somewhat larger loose-leaf notebook, and enhancing it with the inclusion of a previously-developed LIST MAINTENANCE DIRECTORY (which addresses NVRA and New York State requirements for voter registration list management). Additionally, directives and memoranda from the State Board can be added to the GUIDE, to better house certain types of correspondence between the State and our Counties. Additionally, the GUIDE was delivered to our Commissioners with a copy of it on diskette (in WordPerfect format), so that copies could be generated for Deputy Commissioners or other key personnel. Some have even loaded the diskette to their own computers, so they have an on-line version to use as a resource.

The GUIDE has been very well-received, as evidenced by the numbers of complimentary and appreciative calls and comments made by Commissioners and other GUIDE users. It serves as an invaluable tool in our world of election administration, and stands as another example of New York's commitment to those managers of our electoral process, and to ensuring that they have all the tools and resources necessary to serve their constituents and our collective goals and objectives.

Thank you for your consideration of our submission. If I can answer any questions, or if you require additional information, please feel free to contact me at any time.

Very truly yours,



Thomas R. Wilkey
Executive Director
New York State Board of Elections

TABLE OF CONTENTS

Using This Guide.....	1
Chapter I: Election Organization in New York State.....	3
Section A: Governmental Organizations.....	4
Section B: Political Parties.....	7
Section C: Election Commissioners' Relationship and Responsibilities to Party Organizations.....	9
Chapter II: The State Board of Elections.....	11
Section A: Organization and Distribution of Duties.....	11
Section B: Functions and Services.....	13
Chapter III: Local Boards - Organizing and Staffing.....	14
Section A: Organizing.....	14
Section B: Staffing.....	15
Chapter IV: Preparing for Registration, Enrollment and Elections.....	19
Section A: Election Districts and Polling Places.....	19
Section B: Required Supplies; Apportionment of Expenses.....	21
Section C: Offices to be Filled; Candidates.....	22
Section D: Public Notices by Board.....	22
Chapter V: Registration and Enrollment.....	23
Section A: Registration.....	25
Section B: Enrollment.....	37
Chapter VI: Designation and Nomination of Candidates.....	39
Chapter VII: Conduct of Elections.....	46

TABLE OF CONTENTS, CONTINUED

Section A: Immediate Preparations.....	46
Section B: Election Day.....	47
Section C: After Election Day.....	50
Section D: Special Ballots.....	52
Chapter VIII: Campaign Finance.....	54
Chapter IX: Voting Equipment.....	63
Section A: Voting Machines.....	63
Section B: Ballot Counting Machines.....	65
Chapter X: Administrative Management.....	66
Section A: Planning Calendar.....	66
Section B: Job Descriptions.....	67
Section C: Procedures.....	68
Section D: Records Retention and Disposition.....	68
Chapter XI: Public Information and Media Relations.....	71
Section A: Public Relations.....	71
Section B: Media Relations.....	73
Section C: Freedom of Information.....	76
Chapter XII: Items Not Treated in Depth.....	79
Section A: Village Elections.....	79
Section B: Form of Ballots.....	80
Section C: Presidential Electors and Federal Elected Officers.....	81
Section D: Judicial Proceedings.....	81
Section E: Violations of the Elective Franchise.....	81

MISCHELLE TOWNSEND
Registrar of Voters



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REGISTRAR OF VOTERS

May 1, 2000

Ms. Janice Womack
On Behalf of The Elections Center
630 E. Hopkins Street
San Marcos, Texas 78666

Dear Mrs. Womack:

Subject: **BEST PRACTICES SUBMISSION - CREATING MANAGEABLE PRECINCTS**


Enclosed for your consideration is a submission in response to your request for best practices in elections administration. In a rapid-growth County such as Riverside which consists of 7,200 square miles, 24 cities, nearly 60 special districts, approximately 24 school districts and numerous other political boundaries, an inordinate number of precincts were perpetuated over the years due to a number of factors. California State Elections Code precludes crossing certain jurisdictional boundaries when consolidating precincts for smaller elections, and periodic reapportionment resulted in a number of precincts remaining with the press of workload and increasing numbers of elections to conduct.

This difficult-to-manage data base incurred greater cost and more time in the consolidation process. In addition, many areas of our expansive county were simply listed as "unincorporated." This process resulted in an evaluation of all precincts, deletion of approximately 50% of those no longer relevant, a reduction of 300 polling places and an average cost savings of \$150,000 for each major election. All unincorporated precincts have been designated with a geographical name, the precincts are numbered in a more systematic and logical order which provides more stability and easier reference for the candidates and campaigns from one election to the next.

There has been overwhelming positive feedback from all those involved in the electoral process in this streamlined process and the availability of GIS maps which reflect clear and definitive data for the campaign consultants, candidates and voters who compile statistical election trends. This process involved six months of full-time, intensive effort by our technical division staff taking the leadership. We continue to receive encouraging comments about the new system in each of our regular candidate orientation forums.

Once again, we appreciate the opportunity to present this to you which has dramatically saved both staff time and costs for our elections operation.

Respectfully submitted,


MISCHELLE TOWNSEND
Registrar of Voters

Attachments

**Creating Manageable Spheres:
Riverside County's Precinct Renumbering/Renaming Project**

PROBLEM

Explosive growth, rampant annexations and the creation of "special districts" resulted in the ongoing division of existing precincts and the addition of new precincts. These divided precincts, as well as, newly created precincts were assigned "the next available number" resulting in a fragmented numbering scheme that made it nearly impossible to locate a precinct on a map given just a precinct number. This fragmentation hindered any kind of precinct management, resulting in unnecessary polling places and their attendant costs. Precincts in unincorporated areas were given a precinct name of "unincorporated" resulting in reports with voluminous (albeit, rather meaningless) data attributed to various "unincorporated" precincts.

CHALLENGE

First, devise a precinct numbering convention, which incorporates a precinct number to county supervisorial district recognition, precinct number to city recognition, and maintain a logical numerical flow within each supervisorial district. Next, create a precinct naming convention that is compatible with the newly designed numbering scheme and which facilitates precinct management, data analysis, and product generation. Once devised, this new system needs to be implemented in a planned and timely manner with NO down time to the Registrar of Voters office and its customers.

SOLUTION

Develop a precinct numbering scheme that satisfies the above requirements. Assign cities a unique two-digit number for number/city recognition. Identify commonly accepted geographical names for unincorporated areas so as to further differentiate those areas, which are not in an incorporated area. Geographically sequence the numbers to create a west-to-east order. Allow adequate room for regional growth by incorporating gaps in the numbering scheme area by area. Educate staff and customers in the use of new naming/numbering scheme, and explain its benefits to optimize "buy-in" of all affected. Use in-house GIS system to facilitate the decision making process, manage the project, and to ensure a quality product.

NARRATIVE

Rampant growth and its attendant geopolitical "fallout" resulted in a nearly constant barrage of elections with each needing to accommodate newly created special districts and/or annexations. An outmoded precinct numbering scheme coupled with exclusive use of GIS mapping provided no means of efficiently eliminating unnecessary precincts. Existing Precincts that had registration totals at, or nearing the 1000-voter ceiling, were simply "split" to ensure compliance with code. It became apparent that the ability to evaluate an area from a global perspective was needed when faced with the prospect of creating new precincts --- "Manageable Spheres".

Exacerbating the problem was the inability to generate meaningful data concerning regions larger than precincts but smaller than the entire county.

Both internal and external data needs were frustrated by this situation. An examination of precinct numbering/naming systems utilized elsewhere led to the belief that Riverside County's needs would be best served by designing its own naming/numbering system.

Brian Foss, Technical Manager for the Riverside County Registrar's office, evaluated all of the geopolitical boundaries affecting the county. Brian and his staff established the following priorities for dividing the county into "Manageable Spheres" for precincting, mapping and reporting purposes. 1) Supervisorial district reference; 2) Numerical recognition of cities; 3) A naming convention that represented areas within the county; and 4) Room for growth.

The resulting 5 digit numbering convention is one in which the first digit identifies the supervisorial district, the first and the second digits identifies a city, the third digit identifies whether a precinct is an unincorporated of Riverside County or identifies the council district within city boundaries.

To complete the process, a new naming convention was required. The renumbering process made the naming a much easier task. Only two characteristics were designated for use in this process; cities and their political subdivisions were simply reiterated for the incorporated areas, and generally accepted regional names were used for unincorporated areas.

Used in combination, these designations allow for much more concise tracking and analysis of trends.

SYNOPSIS OF BENEFITS:

- Reduced time required for consolidation
- Increased value of reports (trend analysis)
- Cost savings (minimized number of polling places needed per election)

Improved Consolidation Process

The time window for consolidation shifts to "off peak" so that staff can now work on this task without being "under the gun" of an impending election. It is no longer necessary to wait for Certified Lists of Candidates from the Secretary of State in order to prepare for polls, recruitment of elections officers and other post-consolidation tasks. Maps are more valuable (and logical). Precinct consolidation which previously took 2 weeks, can now be done in 2 days through the use of manageable spheres.

Cost Savings

More concise data has lead to more accurate ballot ordering, resulting in cost savings associated with printing. An important budget consideration was the reduction of 300 polling places and deletion of 1,500 precincts which resulted in an approximate \$150,000 cost savings for each major election.

BEFORE				AFTER			
Precinct #	Area Name	Registration	Ballots Cast	Turnout (%)	Precinct #	Area Name	Registration
11003	GLENVIEW HOT SP	438	216	49.3	11810	MIRALOMA	0
11005	LA SIERRA (M)	0	0	n/a	11850	HOME GARDENS	0
11006	GLENVIEW HOT SP	650	240	36.9	11851	HOME GARDENS	438
11007	UNINCORPORATED	536	215	42.5	11852	HOME GARDENS	131
11008	HOME GARDENS (M)	0	0	n/a	11853	HOME GARDENS	254
11009	TEMECCA RANCH	768	344	44.8	11861	LAKE HILLS	260
11010	TEMECCA RANCH	1024	419	40.9	11862	LAKE HILLS	238
11016	UNINCORPORATED	857	358	40.7	11863	LAKE HILLS	571
11018	LAKE HILLS	857	358	40.7	11864	LAKE HILLS	238
11022	LK MATHEWS	94	15	15.8	11870	MOCKINGBIRD CYN	956
11026	LK MATHEWS (M)	11	2	18.2	11871	MOCKINGBIRD CYN	387
11028	LK MATHEWS (M)	0	0	n/a	11872	MOCKINGBIRD CYN	395
11101	CORONA (M)	943	413	43.8	11900	LAKE MATHEWS	500
12004	LK ELSINORE	830	322	38.8	11901	LAKE MATHEWS	182
12005	LAKELAND VLG	485	160	33.0	11902	LAKE MATHEWS	364
12006	LK ELSINORE	37	16	48.6	11903	LAKE MATHEWS	8
12009	UNINCORP (M)	728	272	37.4	11904	LAKE MATHEWS	1
12010	SEDGO HILLS	545	233	42.8	11905	LAKE MATHEWS	602
12012	WILDOMAR	929	406	43.7	11906	LAKE MATHEWS	276
12013	LK ELSINORE	407	143	35.1	11907	LAKE MATHEWS	287
12015	UNINCORPORATED	103	75	72.8	11908	LAKE MATHEWS	360
12016	SEDGO HILLS	927	423	45.6	11909	LAKE MATHEWS	117
12017	UNINCORP (M)	50	16	36.0	11910	LAKE MATHEWS	549
12018	LK ELSINORE (M)	143	86	60.1	11931	WOODCREST	822
12019	HORSETHIEF (M)	12	11	91.7	11932	WOODCREST	375
12020	LK MATHEWS (M)	38	25	65.8	11933	WOODCREST	352
12021	LK MATHEWS (M)	610	325	53.3	11934	WOODCREST	41.4
12022	LK MATHEWS (M)	90	47	52.2	11935	WOODCREST	300
12024	UNINCORPORATED	609	224	36.8	11936	WOODCREST	468
12026	LK ELSINORE (M)	537	213	39.7	11937	WOODCREST	305
12027	LAKELAND VLG	28	16	57.1	11938	WOODCREST	305
12031	UNINCORP (M)	156	82	52.6	11939	WOODCREST	305
12034	SEDGO HILLS	5	4	80.0	11940	WOODCREST	305
12035	PERRIS (M)	491	225	45.8	11951	MEAD VALLEY	727
12037	WILDOMAR	165	73	44.2	11952	MEAD VALLEY	220
12042	LK ELSINORE (M)	9	2	22.2	11953	MEAD VALLEY	36.6
12045	LK ELSINORE (M)	915	395	43.1	11955	MEAD VALLEY	231
12049	UNINCORP (M)	915	395	43.1	11956	MEAD VALLEY	139
12053	UNINCORPORATED	698	309	44.3	11957	MEAD VALLEY	259
12054	WILDOMAR	16	7	43.8	11959	MEAD VALLEY	240
12056	LK MATHEWS (M)	6	3	50.0	11971	MEAD VALLEY	252
12060	UNINCORP (M)	34	22	64.7	11972	MARCH ARB	60
12063	UNINCORP (M)	4	1	25.0	11973	MARCH ARB	25
12064	UNINCORP (M)	4	1	25.0	11974	MARCH ARB	41.7
					11975	MARCH ARB	0
					11976	MARCH ARB	0
					11977	MARCH ARB	0
					11978	MARCH ARB	0
					11979	MARCH ARB	0
					11980	AF VILLAGE W	23
					11981	AF VILLAGE W	7
					11982	AF VILLAGE W	30.4
					11983	AF VILLAGE W	0
					11984	AF VILLAGE W	0
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					11989	AF VILLAGE W	0
					11990	AF VILLAGE W	0
					11991	AF VILLAGE W	0
					11992	AF VILLAGE W	0
					11993	AF VILLAGE W	0
					11994	AF VILLAGE W	0
					11995	AF VILLAGE W	0
					11996	AF VILLAGE W	0
					11997	AF VILLAGE W	0
					11998	AF VILLAGE W	0
					11999	AF VILLAGE W	0
					12000	AF VILLAGE W	0
					12001	AF VILLAGE W	0
					12002	AF VILLAGE W	0
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					12062	AF VILLAGE W	0
					12063	AF VILLAGE W	0
					12064	AF VILLAGE W	0

Improved Mapping

Reports and Maps have greater value because their data is more meaningful.

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REGISTRAR OF VOTERS

May 1, 2000

Ms. Janice Womack
On behalf of The Elections Center
630 E. Hopkins Street
San Marcos, Texas 78666

Dear Mrs. Womack:


Subject: **BEST PRACTICES SUBMISSION - NEW VOTING TECHNOLOGY PROCESS**

Enclosed for your consideration is a submission in response to your request for best practices in elections administration. Many of us are confronted with scarce resources and aging voting systems. Working in a political environment with fierce competition from other departments in the organization with strong constituent advocacy and political influence, such as, law enforcement, health and the judicial system, it is extremely difficult to mount an effective campaign for a new voting system with such compelling funding priorities.

Riverside County recently obtained a unanimous approval by its Board of Supervisors to proceed with a new DRE touch-screen voting system which will be implemented county-wide in this November's Presidential General election. Recognizing the constraints outlined above and after working with Board Members individually, I drafted a report for two of our Board Members to place on their public agenda authorizing the Registrar of Voters to establish a Task Force which evaluated new voting technology. Their more comprehensive and full report is available should you desire to have a copy. However, in accordance with your direction, attached is a summary of that process which successfully led to the March 28th approval of a \$14 million new DRE touch-screen voting system which will be the largest installation of this type of equipment in the United States. Although it is a risk to introduce a new voting system in the highly-visible Presidential election, it is our hope that lessons learned from this installation will facilitate more public agencies to automate their increasingly paper-based and labor-intensive voting systems with newer technology to make the process easier for our voters and pollworkers, and enhance the integrity of the process as well as facilitate timely election results.

Thank you for the opportunity to share this process with you and your committee who will be evaluating practices from throughout the Country. I look forward to learning from each of them.

Respectfully submitted,


MISCHELLE TOWNSEND
Registrar of Voters

Attachments

USING A TASK FORCE TO SELECT NEW VOTING SYSTEM

PROBLEM

Adoption of Open Primary voting in California resulted in a 62.5% increase in ballot printing costs. With a 57.5% turnout in that election, over half a million tax dollars had been spent on ballots, which went unused.

CHALLENGE

Identify an alternative to the currently used, multiple card, Mark-A-Vote system which would reduce (or eliminate) ballot printing costs. Ensure that the recommended replacement system would meet anticipated needs and be adaptable to technological changes.

SOLUTION

Advise County Board of Supervisors of the problem and propose the creation of a county-wide task force to investigate and evaluate alternative voting systems. Select task force members, which represent elections experience, technical knowledge, fiscal management, purchasing experience, and voter advocacy. Ensure that task force members are, to the greatest extent possible, demographically representative of the county.

NARRATIVE

In addition to the skyrocketing ballot printing costs resulting from the adoption of an Open Primary, Riverside County was also faced with the myriad inefficiencies of using outdated card reader technology to record and tabulate votes. The multiple cards required to accommodate California's many initiatives and referenda in addition to conventional ballot contests, were awkward for voters and elections officials. Frequently, voters would fail to turn over ballot cards resulting in contests being inadvertently overlooked and consequently under voted. These ballots sometimes constituted up to 10 cards! Transport, inventory, and close of polls reconciliation of voted and unnoted ballots was time consuming, frustrating and often physically burdensome.

In-house processing of voted ballots was also a labor-intensive process. With ballot cards needing to be stripped of excess perforation chaff and uniformly stacked to be fed into the card readers. The mechanical nature of the cards readers, combined with their 25+ years in service, made them high-maintenance during peak tabulation periods.

In September of 1998, the Riverside County Registrar of Voters received authorization if her request to convene an ad hoc task force to study Voting Technology. The Task Force's mission was to identify available voting technologies and evaluate their suitability for use in Riverside County. Registrar Mischelle Townsend selected Task Force members from across the county to include precinct board members, County Information Technology staff, City Clerks, the League of Women Voters, County Executive Office and County Purchasing representatives.

To reinforce the independence of the Task Force and to assure full access to Task Force members, an e-mail roster of all members was posted at the Registrar's web site. Inquiries and/or comments to individual members were encouraged in the accompanying text.

The Technology Task Force as first introduced to various optical scan and touch screen systems and the principles upon which they work. Representatives from several companies as well as elections officials with first-hand experience in the use of these technologies addressed the Task Force. Early on, the Task Force settled on touch screen as its preferred technology, owing in large part to the desire to get away from the printed ballot (and its attendant costs).

Meeting every four to six weeks, by June of 1999, the Task Force sent to the Board of Supervisors a Request for Proposals (RFP), which was subsequently approved and published. Included in the RFP were features, performance standards, certification requirements, pricing options and any features which were optional or which could be added on to a basic unit later. Additionally, the Task Force invited all respondents to the RFP to suggest alternative methods to processing absentee ballots in furtherance of the goal of streamlining ballot tabulation and reducing costs.

Of the five vendors submitting proposals in response to the RFP, three were deemed to meet criteria sufficient to be considered responsive. Those three companies were invited to make presentations and to demonstrate their products/systems to the Task Force. The presentations/demonstrations narrowed the field to two products/vendors whose scores were so close in the Task Force members' scoring, as to make a single choice difficult. A subcommittee of the Task Force was created for the purpose of conducting parallel negotiations with both vendors.

At the request of the subcommittee, both finalists were invited back to demonstrate the software portion of their respective systems, as previously stated only hardware had been demonstrated.

Subsequent to the software demonstration, the Task Force selected the most competitive and responsive vendor and recommended that the county proceed with exclusive negotiations with that vendor. A final negotiated agreement was placed before the Board of Supervisors on March 28, 2000.

I believe this process to be an example of a Professional Practice worthy of emulation. The use of a Task Force drawn from across this 7,200 square mile county brought to the process of selecting a new voting system, a credibility that would be difficult, if not impossible to attain in any other way.

Attached are two examples of Task Force agenda, and a synopsis of the Task Force's findings as the latter appeared in the March report to the Riverside County Board of Supervisors.

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FROM: Supervisor Venable
Supervisor Mullen

SUBMITTAL DATE: June 8, 1999



SUBJECT: NEW VOTING TECHNOLOGY

RECOMMENDED MOTION: That the Board of Supervisors authorize the Electronic Voting Technology Task Force and the Registrar of Voters to proceed with a Request for Proposals for a Direct Record Electronic (DRE) Voting System.

BACKGROUND: On September 1, 1998 the Board directed the establishment of an Advisory Task Force to examine voting technology and its potential for decreasing the time required to count ballots and reducing operation costs. The Task Force is comprised of representatives from the Coachella Valley Association of Governments (CVAG), Western Riverside Council of Governments (WRCOG), City Clerks Offices, Riverside County Transportation Commission (RCTC), League of Women Voters County Office of Education, Jaguar Computer Systems, County Purchasing Department, two Election Precinct Officers, (Pechanga Tribe Council Member and a Lieutenant from the Sheriff's Department) County Executive Office, Department of Information Technology, and the Registrar of Voters.

In addition to examining technology's potential for decreasing time required to count ballots and reducing operational costs, the Task Force also examined the accuracy and auditability of ballot tabulation and the reliability of electronic voting machines in extreme climates. Finally, the County's current system was compared with potential benefits of electronic voting technology.

Attached are (1) composition of the Committee; and (2) the Committee's report to the Board including recommendation.

SUPERVISOR TOM MULLEN

SUPERVISOR JAMES VENABLE

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione, seconded by Supervisor Mullen and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended with the report due back on Tuesday, August 10, 1999.

Ayes: Buster, Tavaglione, Venable, Wilson and Mullen

Noes: None

Absent: None

Date: June 8, 1999

xc: Supvs. Venable, Mullen, Registrar of Voters, COB

Gerald A. Maloney
Clerk of the Board

3 AGENDA NO.

**AN EXAMINATION
OF
ELECTRONIC VOTING SYSTEMS
FOR
RIVERSIDE COUNTY**



Presented to the
Riverside County Board of Supervisors
by the
Electronic Voting Technology Task Force

June 1999

RIVERSIDE COUNTY VOTING TECHNOLOGY TASK FORCE

Roster

Alicia Chavez
Moreno Valley City Clerk/
Representative of the Western Riverside
Council of Governments

Billy Cornett
Procurement Contract Specialist
County Purchasing Department

Richard D'Souza
Data Processing Manager
County Office of Education

Barbara Dunmore
Administrative Manager
County Executive Office

Matt Frymire
Chief Technology Officer
County Department of Information Technology

Sheila Gilligan
City Clerk
City of Palm Desert

Eric Haley
Executive Director
Riverside County Transportation Commission

Kathie Hart
City Clerk
Desert Hot Springs

George Hoanzi
President
Jaguar Computer Systems

Kelly Kennedy
Representative of
Coachella Valley Association of Governments

Andrew Masiel
Precinct Inspector
Councilman, Pechanga Indian Reservation

Colleen Nichol
City Clerk
City of Riverside

Captain David Nordstrom
Also Election Precinct Inspector
County Sheriff's Department

Carole Stringer, President
Riverside League of Women Voters

Mischelle Townsend
Registrar of Voters
County of Riverside

Kay Vinson
City Clerk
City of Murrieta

Vicki Wasko
City Clerk
Corona

Synopsis of Findings of Voting Technology Task Force:

VOTING TECHNOLOGY TASK FORCE:

In addition to validation by the public, the Board's appointed Voting Technology Task Force represented a broad cross-section of elections officials (e.g. City Clerks), technology experts (including the County's Department of Information Technology), the League of Women Voters and pollworkers who have worked at the precinct board level. After several months of examining alternate voting systems, the Task Force recommended and the Board approved their selection of Sequoia-Pacific's Edge Touch Screen Voting System for a number of reasons including the following benefits to Riverside County's electorate:

Certified: This equipment has been approved by an Independent Testing Authority to meet Federal Election Commission voting machine standards. It has also been certified for use in California by the Secretary of State;

Supports Thousands of Precincts and Ballot Styles: Accommodates all ballot types for jurisdiction-wide early voting on a single machine;

Simple Voting: The touch-screen method and scroll buttons eliminate over-voting, spoiled or rejected ballots;

Convenient: The Edge is a ballot, voting booth, and vote tabulator all in one self-contained unit which makes it easy to transport conveniently to population centers;

Multiple Languages: As population grows and is diversified in southern California, reapportionment could require multiple language ballots in Riverside County as is the case in many other California counties. The Edge can produce official ballots in other languages without incurring additional printing costs;

Accessible to Disabled Voters: The screen easily adjusts to accommodate wheel chair voters and has been favorably received by them when it has been used in Riverside County elections;

Faster Election Results: As demonstrated in San Jacinto, a jurisdiction-wide election was completed in approximately 45 minutes. Typically, pollworkers do not complete assembling and accounting for the thousands of multiple-card paper ballots in that length of time prior to transporting to the counting center. The Edge will save time for pollworkers by automating the accounting of ballots rather than the

pollworker having to manually process them and the associated paperwork;

Accurate: Voter intent is clear with the electronic ballot which is 100% accurate. There is redundant storage on the unit and the results cartridge. Totals are updated and verified between each voter;

Reliable: The Edge uses only high-reliability solid-state memory for ballot and vote storage. No mechanical disk drives are used because they are unreliable and prone to failure in the conditions voting machines must operate. These conditions include temperature extremes, shock and vibration in transporting, all of which the Edge has been successfully certified and tested in a variety of actual circumstances;

Secure: The Edge operating system is proprietary and not available as other off-the-shelf operating systems (e.g. Windows, Windows, NT or Unix). The CPU board is custom-designed with an industrial strength processor which contains a watch-dog timer that constantly monitors the system. Each unit is stand-alone and not connected to the Internet.

Cost Savings: A minimum of \$600,000 will be saved for each major election by not printing paper ballots at the polls; and this savings will substantially increase with population growth and inflation

Johnson County Election Office



Connie Schmidt
Election Commissioner

Celebration of Patriotism Foundation of Johnson County, Kansas

As we all know, our democracy is sustained through citizen participation in electing representatives to govern both at the national and local levels. Unfortunately, nationwide the number of voters participating in elections is declining despite efforts to make voting convenient and easier. It is estimated that fewer than half of the registered voters are likely to vote for President in Election 2000. Of that number, youth between 18 and 24 years of age are least likely to vote. This decline in voter participation has also occurred in Johnson County, Kansas.

In response to this situation, as well as a lack of funding for voter outreach activities, in 1999 our office recruited citizen leaders, including high school and college students to found The Celebration of Patriotism Foundation of Johnson County, Kansas, a non-partisan non-profit 501(c)3 foundation. The 19 member Board of Directors consists of community leaders, educators, media representatives, attorneys, business executives, residents, high school and college students, and the Johnson County Election Commissioner. This group has been formed under the auspices of the Johnson County Election Office, which shares with the Foundation the goal of reconnecting voters – especially young ones – with the electoral process and reinvigorating our democracy. To expand the voter education efforts initiated by the Election Office, the Foundation will focus on:

- Student Education
- Community Education
- Corporate Partnerships
- Community/Volunteer Participation
- Election Day Activities

The goals of the Celebration of Patriotism Foundation of Johnson County, Kansas, are

- To increase the number of people of all age groups voting in Johnson County
- To dispel the myths commonly held among 18 to 24 year olds that result in their failure to vote or get involved with the political system (for example, "My vote does not matter.")
- To foster a sense of patriotism within Johnson County as evidenced by greater citizen participation in local political campaigns.
- To enhance voter turnout and have cause for celebration on Election Day.

OBJECTIVE

The Celebration of Patriotism Foundation has received funding from a variety of sources, including major corporations, local businesses, and individuals. This funding will be used to implement a broad scope of programs and activities and to increase the level of voting among Johnson Countians and their participation in the democratic process. The Foundation seeks to create a program that is replicable in other parts of the country.

METHODS AND BENEFITS

In its first year, the Foundation will focus its programs on increasing voter turnout among 18 to 24 year olds in time for the 2000 Elections. In a National Association of Secretaries of State poll, a majority of youth (55 percent) reported they felt schools had given them inadequate information to vote. To better inform young people, activities will be concentrated in public and private schools and area colleges, including Johnson County Community College and MidAmerica Nazarene University. The foundation will also partner with local school districts, parent teacher associations, and the League of Women Voters of Johnson County.

Contributions to the Foundation will provide materials needed to support the following programs:

- Birthday cards will be sent to students who turn 18, along with voter registration forms, information about the importance of voting, instructions about the voting process, a description of the Election Office web site, and related materials.

2101 East Kansas City Road, Olathe, KS 66061
Internet Address: www.jocoelection.org

(913) 782-3441 Fax: (913) 791-1753
E-mail: election@jocoelection.org

- Students in public and private high schools will be encouraged to develop flyers containing non-partisan information about voting. The flyers will be duplicated and distributed to every house in the student's precinct (a total of 324 county precincts). Teachers and schools will provide technical guidance, and each unique flyer will be reviewed by an adult volunteer for accuracy and non-partisan content prior to duplication and distribution. Participating students will be presented with certificates and participating schools will receive books on American democracy or history of political movements for the school library. As an additional incentive, a computer and desktop publishing software will be donated to the high school attracting the greatest student participation or generating the highest voter turnout.
- Ads will be published in student newspapers with a voter registration form, information about voting in advance, and an application for an advance voting ballot.
- The Foundation will provide funds to support a local forum or non-partisan panel discussion in cooperation with the Student Governing Association at Johnson County Community College. Student and faculty will be encouraged to host group discussions following the Presidential debates. Similar offers will be made to MidAmerica Nazarene University.
- In partnership with local newspapers, the Foundation will sponsor an essay contest on the topic "The Importance of Student Participation in Public Service." The Foundation will provide an all expense paid trip for the winner and an adult guest to fly to Washington D.C. to attend the Inauguration of the President in January 2001.
- Within elementary schools, the Foundation will sponsor projects that involve students in publicizing upcoming elections. Activities will include student design and display of VOTE signs, mock elections on actual voting machines, distribution of "It's Election Day" stickers to elementary students, and Election Day school celebrations. The Foundation will give participating schools funds for art supplies, stickers, and related expenses for school functions.

After concentrating its first-year programs on increasing voting awareness among 18 to 24 year olds, the Foundation will expand its efforts in the following areas:

Community Education

- "VOTE" signs and flags to be posted by local businesses
- Advertisements and public service announcements in newspapers, on radio/television, and on billboards
- Specially designed bumper stickers, book marks, lapel pins
- Publication of voter guides and/or a voter outreach newsletter

Corporate Partnerships

- Place mats for use in local restaurants
- Voter information reminders on shopping and newspaper bags, and on bill stuffers to accompany bank notices and utility company invoices.
- Corporate "VOTE" flags to fly 20 days prior to every Election Day

Community/Volunteer Participation

- Canvass of neighborhoods to distribute non-partisan election and voter information
- Display of "VOTE" signs and flags at residences

Election Day

- Installation of large flags outside every voting location
- Incentives for election workers

CONCLUSION

The Foundation will recruit volunteers, teachers, and parents and is forging important community and corporate partnerships in its efforts to educate citizens – particularly young ones – on the importance of voting and participating in the democratic process.

...is community-at-large effort reflects the true meaning of the following quote by John Gardner:

"Democracy is measured not by leaders doing extraordinary things, but by its citizens doing ordinary things extraordinarily well."

PLEASE HELP US PROMOTE THE VOTE!

The Celebration of Patriotism Foundation is a newly formed, non-partisan 501(c)(3) non-profit organization dedicated to encouraging, inspiring, educating, and motivating the community to be involved and participate in the democratic process.

To expand the excellent voter education efforts initiated by the Johnson County Election Office, the Foundation will focus on student education (our highest first-year priority), community education, corporate partnerships, community/volunteer participation, and Election Day.

FOUNDATION GOALS

- To increase the number of people of all age groups voting in Johnson County
- To dispel the myths commonly held among 18- to 24-year-olds that result in their failure to vote or get involved with the political system (for example, "My vote doesn't matter")
- To foster a sense of patriotism within Johnson County as evidenced by greater citizen participation in local political campaigns
- To enhance voter turnout and have cause for celebration on Election Day

Community volunteers will become the center of the effort to "promote the vote" within the neighborhood, school, and workplace. Volunteers will be mobilized to walk the precincts with voter information, man voter education booths at community festivals and shopping centers, and help coordinate voter-related activities in area schools.

VOTING DECLINE IS ALARMING

Nationally, young voters are dropping out of the electoral process in alarming numbers. Fewer than one in five 18- to 24-year-olds nationwide voted in 1998.

Since the 1972 presidential election, when the voting age was lowered to 18, voting has decreased by 20 percent among 18- to 24-year-olds, with only 32 percent going to the polls in 1996. This 28-year decline in voting and other forms of democratic participation among young people most likely will continue into their later life with dramatic ramifications for the country's democratic process.

Even among older citizens, voter apathy is apparent. Nationwide, only 49 percent of eligible voters voted in 1996 — a 9 percent decrease during presidential elections since 1972. The pattern of declining participation in the electoral process holds true in Johnson County. Voter turnout in spring elections for cities and schools averages 23 percent.



PROMOTE THE VOTE

Other reflections of citizen apathy: a scarcity of people willing to work at the polls during elections, decreasing numbers of potential candidates willing to run for elected office, and declining numbers of citizens interested in volunteering to work in political campaigns.

SAMPLING OF PROGRAMS

Youth in Democracy — A number of outreach activities are planned for elementary through high school students:

- distribution of birthday cards on 18th birthdays with instructions on voter registration and voting options
- lesson plans for K-12 instructors to prepare students for election year activities — emphasizing the importance of voting and being an educated voter and acquainting students with candidates
- a program through which grade school children design VOTE signs to place in their family front yard to publicize voting, involving them in Election Day

Marketing Voting — Citizens will be encouraged to participate in and celebrate Election Day through colorful reminders including the following:

- billboard advertising and marquis signs at businesses, malls, and schools
- advertising in area newspapers and in student newspapers in local colleges and high schools
- flags and banners throughout the county on Election Day, VOTE streetlight banners, and flags along major thoroughfares

YOUR SUPPORT WILL MAKE A DIFFERENCE

Name _____
 Organization _____
 Address _____
 City _____
 State _____ Zip _____
 Phone (____) _____
 Fax (____) _____
 E-mail _____

- ☐ Please add me to your mailing list.
☐ Please add me to your e-mail list.
☐ Enclosed is my contribution of \$ _____.
☐ I'm interested in volunteering. Please send details.
☐ I can lend my professional services. Please call me.

Please return to:

Celebration of Patriotism Foundation of Johnson County, 2101 E. Kansas City Rd., Olathe, KS 66061
 913-782-3441



Board of Directors Johnson County, Kansas

-
- ★ Joe Berman, Hyman Brand Hebrew Academy, 1999 Youth in Government Governor
 - ★ Maddie Breitmayer, Shawnee Mission Area Council of PTA, President
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 - ★ Nicole Wooldridge, Johnson County Community College Student
 - ★ Liz Wyer, Johnson County Resident
 - ★ Connie Schmidt, Johnson County Election Commissioner

Professional Practices Paper

Cleaning the Voter Registration Lists is Good Business Sense

In Mecklenburg County, North Carolina, where the largest city is Charlotte, we have 440,000 registered voters out of a population of 600,000. Our area is growing rapidly, as evidenced by studies ranking the counties in this area among the fastest growing in the country. Additionally, we have a fairly large number of apartment-dwellers, who are more transient than average. As a result, it is a constant battle to maintain current and accurate voter registration rolls.

Beginning in 1998 and escalating since, we have undertaken a proactive program to keep the lists as “clean” as possible, by aggressive use of the National Change of Address database and mass mailings. Many of our counterparts are aghast at the expense; we have found it to be very cost-effective. Here’s why.

In the 1996 General Election, we came under direct fire from candidates for the cost they bore due to undeliverable mail. Our files contained about 30% bad addresses, or information resulting in otherwise undeliverable mail. We also had thousands of election-day corrections to our voter registration records, discovered at the polling place during the interactions between precinct officials and voters. We resolved to use all the tools available to us, in this post-NVRA world, to improve this situation.

To begin with, we must state that we have an excellent voter registration system, in that it validates all data entry against a master street file and assigns precinct numbers automatically. Data entry for a voter record, with a house # & street name combinations not in the master street file, is rejected.

Pre-NVRA, we had clues that an address might be invalid or that a voter had moved without notifying us, but didn’t feel empowered to address the situation proactively. Our recourse was to wait for the quadrennial purge cycle. As a result, we had flagged about 50,000 records with questionable addresses. The first step we took, in the Spring of 1998, was to use a verification mailing, followed by a confirmation notice. These 50,000 moved (for the most part) to Inactive status. This was our first action of this sort, following the passage of the NVRA.

Next, we matched all of our addresses (not names & addresses) against a file of valid Post Office addresses. Our county’s tax office does a similar function and has contracted with a firm called Group1 to supply us with a database of all postal deliverable addresses in the United States – more than we needed, but it works.) This data is available through Post Office-certified vendors, the same as NCOA matching functions. We discovered zip codes mismatched against streets, house numbers the Post Office had designated outside of the valid range, etc.

Many of these findings became corrections we did to our data; others became the meat for conversations with the Post Office – resulting in corrections to their records. This latter was not an easy task, but also not impossible.

Our third step in this housecleaning effort was a full-file match of our voter registration database against the Post Office's National Change of Address (NCOA) database. I chose a 36 month interval; the longest permitted by the process. We took competitive bids, ending up with a rate of \$1.25/1000 records. This was very cheap!

We sent confirmation notices to all those with out-of-county forwarding addresses – about 18,000 voters. Due to time constraints and other workload items, we chose not to send verification notices to those with in-county forwarding addresses, although North Carolina's List Maintenance provisions allow for this. Those returned undeliverable became Inactive; those returned verifying a new out-of-county address were removed.

Next, we mailed a postcard to every active voter on our records – about 330,000 of them. Not only did we verify the addresses, we specifically asked recipients to verify every item of information we maintain, including birthdate. Once, ten years ago, we did a systems conversion which resulted in some "guesses" to supply missing information. Those guesses had never been verified in a systematic manner. Also, once upon a time, married women were registered as Mrs. Frank Burns, instead of Eleanor Burns. This mailing provided us a wonderful one-time opportunity to truly clean house.

We received a wealth of undeliverable mail and another huge quantity of corrections to the data.

The fruit of this effort is now becoming apparent, and will continue to ripen throughout this Presidential election season. A local fiscally-conservative candidate did a mailing to 9000 voters and only received 3 pieces of returned mail. The candidate was ecstatic, and touts our efficiency loudly. It won't hurt that this candidate is one of those with approval authority over our budget.

Even closer to our hearts will be the interactions with the voters on election days. They will be better able to walk into the polling place and find everything correct. This leaves warm fuzzy feelings in their minds and hearts, and eases tensions while long lines are being dealt with. It also speeds up the process in the polling place. And, afterward, we will have fewer pieces of paper to process, when we are already tired and overworked.

In effect, we front-loaded much of our work, to a time when we had more leisure. And everybody is happy with the result!

For more information please contact:

Daniel Binford
Systems Administrator
Mecklenburg County Board of Elections
PO Box 31788
Charlotte, NC 28231
704.336.8761

Professional Practices Paper

The Web Site is our Front Counter

There are a number of different philosophies an entity can choose between, when deploying a web site. The choice of philosophy has much to do with what benefit you get out of your investment.

Some companies put forth a "brochure" site, which contains little more than a description of the company's business, and a phone number. This is kind of like putting your business card up on the wall at your favorite restaurant.

The next level of complexity involves a one-way flow of much information; it's all there on line and the site visitor is welcome to dig for it.

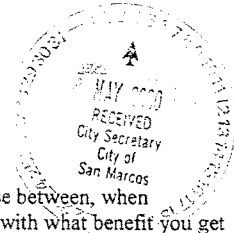
To this a company can add interactivity, where the visit is a question and answer process, or a guided search through menus. The organization of the information and the multiple navigational alternatives serve the customer better. These offerings mean that a programming effort is required, so the company's investment in the site goes up.

To this point, however, the customer is surfing alone. The company's involvement in the site is all at arm's length.

In the Mecklenburg County Board of Elections, we have gone several steps beyond this. Our guiding philosophy, within the confines of North Carolina law, is to treat our web site as an alternative Front Counter. We have studied interactions with customers at our Front Counter and replicated the available information and forms of access to it, via the Web. Site visitors can click on "Am I Registered?" and "Where Do I Vote?"; they can access "My Sample Ballot" and "My Precinct Demographics". All of these link to web-available database applications which provide the answer unique to the voter – all information extraneous to that voter is filtered out.

There are lots of places within our site (www.meckboe.org) where a visitor can send an e-mail to a person or fill out a contact form (which becomes an e-mail message.) Staff receives and responds to these messages as readily as to a phone call, so site visitors truly enjoy an interactive visit, and their information needs are met.

On election days, it's often difficult to get an open phone line into our office; the line is never busy on our web site. Over the last three years, the number of election-day visitors to our site has climbed steadily from 7,000 to 120,000! Thank goodness we didn't have that many more phone calls!



We continue to analyze our customer's needs and to identify additional groups of customers (each group has additional and/or different sets of needs.) One project currently underway will serve political researchers extensive details on past elections, another will provide on-line campaign finance reports. We were recently asked to help the elected bodies investigate nominees for board and committee appointments; most of the needed information is already available and the rest will be forthcoming.

Other sites, such as political parties and real estate agents, are welcome to link to specific offerings within our site, and to integrate those services seamlessly into their own sites. The possibilities stir the imagination!

I encourage each of you to treat the information you maintain as a very expensive resource, and to work hard to maximize the benefits that the entire community can obtain through access to it. At the same time, you will maximize the value of your office in the community – never a bad thing!

For more information please contact:

- Daniel Binford
Systems Administrator
Mecklenburg County Board of Elections
PO Box 31788
Charlotte, NC 28231
704.336.8761



Allegany County Board of Elections

Memorandum

To: Janis K. Womack, Chair, Election Center Professional Practices Committee
From: Catherine O. Davis, Elections Administrator
Date: April 4, 2000
Re: Professional Practices Paper

Enclosed is a submission for your Professional Practices Paper. If you should have any questions, you may contact me at the following address:

Allegany County, Maryland, Board of Elections

701 Kelly Road, Suite 213

Cumberland, Maryland 21502

Phone: 301-777-5931

Fax: 301-777-2430

E-Mail: kdavis@allconet.org

Thank you for your consideration.

Allegany County, Maryland Address Data Base

In 1992, Allegany County began a street naming and addressing project for the 911 Emergency Telephone System. As this project evolved, the County realized that the address information would have many other uses in addition to emergency response. At the same time, the County Election Board began an update of the election district boundaries, which required the relocation of hundreds of properties to different districts.

It soon became evident that the same information could be generated and used without duplicating a separate address data set for each county agency. The outcome of this effort among Election Board, Emergency Management, and the Planning Division is a new countywide address data base tied to the county's G.I.S. and 911 system that can be used by all county agencies.

Use provides for faster and more accurate voter registration, faster dispatches for 911 emergency calls, and quicker verification of addresses and phone numbers for mass mailings in the Planning Division. The system is available on the County's computer network and is used by the Tax and Utility Office, the Department of Public Works, the Transit Division, the Board of Education, and other county offices.

Need for the Program

The initial need came about as a direct result of the statewide mandate to prepare a 911 street address system for the County. A second need that surfaced at the same time was related to the U.S. Census Bureau's mandate that all Minor Civil Divisions have boundaries that are visible in the field. Since election districts serve as Minor Civil Divisions in Maryland, a number of these boundaries in Allegany County needed to be modified.

The County was obligated to address both of these needs and in so doing, discovered that one all-encompassing data base could be developed that would serve both Election Board and 911 needs. The County was also beginning to develop a countywide G.I.S. and felt this would create a base level of information for that system. Discussions with other departments including Tax and Utilities, Public Works, and Transit generated interest in using the information to locate property owners more quickly and accurately. Additional interest in purchasing the directory has been expressed by private companies including delivery firms and consultants.

Description of the Program

> Objectives

The objectives of the data base are threefold:

1. To provide a method for accurately locating voters for registration purposes
2. To provide a basis for addressing the County's 911 program
3. To provide a data layer for the county's G.I.S. that will allow other agencies to access the information.

> Time Frame

The data base is a direct outgrowth of the 911 house numbering system that began in 1992 and was essentially completed in 1996. The election district reconfiguration resulted from Census Bureau directives following the 1992 election. Completion in draft form was accomplished in 1997. Widespread use began in 1998 when it went online with the County's computer network. Quarterly updates are maintained with diligence.

> Type of Information

Street names, address locations, voting and legislative districts, county road identification numbers, and mapping co-ordinates are currently available. In the future, this information will be tied to tax maps, utility billing, road numbers, transit routing, and similar information. Ultimately any geographic information that can be coded will be incorporated into the system.

> Clientele

Initially, use was through the Election Board, the 911 System, the Permits Office, County Roads, and the G.I.S. Eventual expansion of the system will include the Tax and Utilities Office, Public Works, Transit, the Board of Education, and county agencies. Private interest is from elected officials and candidates for public office, delivery companies, sales and marketing firms, and mapping consultants. The directory is sold as hard copy or on disk.

> County's Role in Devising the System

Other than the mandates from the State 911 Board and the Bureau of the Census, the system is completely self-designed using existing commercial software. The County's Election Board, Emergency Management, and Planning staff initially developed the house numbering system and the election district boundary review. The street directory grew out of that effort.

➤ Maintenance of the System

The address data base is maintained by committee with representation from the Election Board, Planning Division, and Emergency Management. Quarterly work sessions process newly treated subdivision lots as they are numbered and municipal updates are integrated.

Cost of the Program

House Numbering Project:	\$250,000 over 5 years (Funded by the State)
Street Signs:	\$ 80,000 (50% State, 50% County)
Election District Boundaries:	Staff
Street Directory:	Staff
System Hardware:	\$ 1,500 (Elections only, other departments are using existing computer systems)
Program Software	\$455/suite Software used is County standard.

Results/Success

The data base is currently available in the Excel format. This allows the information to be manipulated by Election District, Municipality, Fire and Rescue District, Zoning District, or Taxing Area. This project indicates a time saving of 3 to 5 minutes per voter registration and a vastly increased level of accuracy in placing voters in the proper Election District. The information is also being used to assist in locating sites within the 911 System by integrating the data into the Computer Aided Dispatch system. This speeds up dispatch time for fire and rescue services.

Limited use with the G.I.S. has enabled the county to quickly verify addresses for Planning projects where mass mailings are involved. Additionally, limited trial access to the data by private firms has shown a high degree of success in locating delivery sites and speeding deliveries by U.P.S. and FedEx. Revenue generated by the sale of this system reverts to the County. This additional revenue stream is expected to increase each year the system is in use.

Worthiness of the Project

Creation of this data base has accomplished several County goals in its thus far limited application:

1. The system has increased the level of accuracy in determining property and address locations.
2. The system has proven to be a timesaving device in locating addresses for the 911 system, the election registration process, and mailing for planning projects.
3. The system is providing basic street and address data for the County's growing G.I.S. In the near future, expanded use will have the following applications:
 1. The system will coordinate road numbers with the directory. This will allow faster response to road problems by pin pointing locations faster and more accurately.
 2. The system will provide more accurate information to the Tax and Utility office for billing purposes.
 4. The system will allow the transit operation and the Board of Education to evaluate bus routes and provide better service to citizens and students.
 5. The system will be the base for a Master Street Address Guide (MSAG) for 911. With installation of a new 911-phone system, this MSAG is required. Bell Atlantic will use the MSAG for data extraction to create accurate address data base for the new 911-phone system. This system provides the MSAG at minimal time and cost to the County.
 6. The system provided the format from which the election office implemented the recently mandated statewide voter registration system.

**ALAMEDA COUNTY REGISTRAR OF VOTERS
A PROGRAM TO TEST AND CERTIFY ELECTION INSPECTORS
By Elaine Ginnold, Assistant Registrar of Voters**

BACKGROUND

In California, Election Inspectors are responsible for managing the polling place on Election Day. This includes supervising and directing the subordinate Judges and Clerks, picking up and checking ballots and supplies, making sure that the election process is running smoothly, balancing the Roster and returning the voted ballots and supplies after the polls close. It is a responsible job and one that requires basic clerical skills, such as the ability to find names in alphabetical order, to read and understand directions and to add and subtract.

Alameda County decided to begin a testing and certification program for Election Inspectors after finding that there were multiple problems in precincts where the Election Inspectors lacked basic skills in reading and arithmetic. In some polling places, Inspectors were unable to find voters names in the Roster, follow written instructions, or perform the calculations needed to balance the roster. Because the problems continued in election after election, the Registrar of Voters' Department decided to spend extra time and resources to find Inspectors who had the basic clerical skills needed to run a polling place.

The program to test and certify Inspectors started before the November, 1996 General Election as a pilot program in the City of Berkeley, which had 116 precincts. Inspectors who volunteered for the program were tested, interviewed, and assigned to a polling place. Of the 55 precincts with Inspectors who were certified, only 8 or 16% had problems understanding and following instructions on Election Day. Of the 61 precincts without certified Inspectors, 40 or 66% experienced problems understanding and following instructions on Election Day. Based on the positive results of this pilot program, the certification and testing of Inspectors was extended to other areas of the County.

The certification and testing program consists of a test, an interview with elections department staff, a report card on Election Day performance, and a \$20 bonus and Certification if the Inspector has met all of the key Election Day performance requirements. The Inspector remains certified and receives the bonus in future elections so long as he or she continues to fulfill the key performance requirements.

THE PROGRAM

***Letter to all poll workers**

Before an election, the Registrar of Voters mails a letter to all poll workers in a particular city. The letter describes the program and invites workers who want to become certified inspectors to take a certification test.

***Testing**

Inspectors must take a test as the first step in the screening process for certification. The test is composed of 20 questions that cover basic clerical skills, including reading comprehension, alphabetization, arithmetical calculations and problem solving ability. It must be completed in 30 minutes. Those who pass the test are invited to an interview. Those not passing the test may become judges or clerks at the polls, but may not be Inspectors. (See sample of test questions on Attachment A)

***The Interview**

The interview consists of a 10 minute meeting with one or two members of the election department staff. Each applicant is asked the same questions and most of the questions are situational – what would the applicant do in response to certain common situations that occur at the polls.

***Training Class**

The next step in the certification process is attendance at a training class before the election. In Alameda County, all Inspectors, both certified and non-certified, must attend a training class before the election or they are not permitted to work as Inspectors.

***Report Card and Bonus**

An assessment of Election Day performance is the final step in the certification process. After the election, the Registrar of Voters' staff prepares a report card for every Inspector. If the Inspector meets all of the key performance requirements, he or she receives a \$20.00 bonus and is certified for all future elections so long as his/her performance continues to meet the key requirements.

The certification program requires time, commitment and follow through on the part of the Registrar of Voters' staff. However, without the extra effort to make sure Inspectors who manage the polls can do their jobs, the same performance problems would continue in election after election. The payoff is when Election Day runs smoothly and voters express confidence in the management of their polling places.

555

ALAMEDA COUNTY REGISTRAR OF VOTERS
EXAMINATION OF POLL WORKERS

This test consists of 20 items and must be completed in 40 minutes.

DO NOT BEGIN UNTIL INSTRUCTED TO DO DO

Please read and follow the instructions for each question carefully.

You must write your answers on the test booklet.

You may use the What to do if...or Precinct Board Member Instructions booklets to find your answers.

Please print your name, precinct number and today's date below.

NAME _____ PRECINCT NUMBER _____

DATE _____

1. Arrange the numbers 1-8 to show the correct alphabetical order of the names listed below.

1. Timothy Smythe
2. Betty Smith
3. Deborah Sims
4. Jacob Abrahams
5. Emily Cochran
6. Ralph Abrahms
7. Emile Hernandez
8. Ralph A. Abrahams

2. Arrange the letters A-H to show the correct alphabetical order of the names listed below.

- A. Ruth Johnson
- B. Mary Jones
- C. Walter Jacobs
- D. Tim Gonzales
- E. Ronald Gonzalez
- F. Andrew Hoffman
- G. Philip Hoffmann
- H. Mary Hofmann

3. The names of most of the voters who show up at your polling place will be found in the Roster-Index.

(A) Are these voters required to show ID?

(B) Are any voters required to show ID?

(C) If "YES", explain.

4. Does a voter who votes a provisional ballot have to sign the Roster?

- A) Sometimes
- B) Always
- C) Never
- D) If their name is there

5. You find a voter's name on the green INACTIVE VOTERS ROSTER, and the voter states that he/she does not live at the printed address. What do you do?

- A) Issue the voter a phone card and instruct the voter to call the office
- B) Issue the voter a provisional ballot
- C) Allow the voter to vote a regular ballot
- D) None of the above

6. Who may NOT return an absent voter ballot for another voter?

- A) Grandparent
- B) Spouse
- C) Aunt
- D) None of the above

7. An Absent Voter surrenders his/her AV Ballot and wants to vote at the polling place. What do you do with the surrendered AV Ballot?

- A) Drop it in the ballot box
- B) Write "Void - Voted at Polls" on the AV envelope
- C) Tear it up and throw it away
- D) None of the above

8. A voter spoils his/her ballot. How many additional ballots can the voter receive?

- A) 1
- B) 2
- C) 3
- D) 4

DIRECTIONS: If the two addresses are written alike in every way, circle the T. If the two addresses are not written alike in every way, circle the F.

- | | | | | |
|-----|---------------------|------------------------|---|---|
| 9) | 3930 Edwards Avenue | 3930 Edwards Avenue | T | F |
| 10) | 6345 Scenic Drive | 6435 Scenic Drive | T | F |
| 11) | Emeryville, CA | Emeryville, California | T | F |

DIRECTIONS: The following problems are designed to measure your skills in computation. Read each problem carefully and circle the correct answer on your answer sheet. Please use a separate sheet of paper for your work. Turn in your work sheet with your answer sheet upon completion of this test.

12) $115 + 295 + 431 = ?$

- A) 481
- B) 841
- C) 814
- D) 410

13) Subtract 11 from 72

- A) 83
- B) 61
- C) 71
- D) 60

14. After 8:00 p.m. on election day when you are packing your supplies, you notice that you do not have any voted AV ballots to place in the medium sized AV envelope nor any provisional ballots to place inside of the medium sized provisional envelope. What will you do with the medium sized AV and provisional envelopes?

- A) Put them back in the plastic supply bag
- B) Put them in the large blue Roster Index envelope
- C) Put them in the manila Miscellaneous envelope
- D) None of the above

15. After the election, your job is to account for the voted ballots. After you tear off the blank write-in stubs of your ballots, where do you put them?

- A) In the manila Miscellaneous envelope
- B) In the gray ballot box
- C) In a garbage can
- D) In the large blue Roster Index envelope

Read the paragraph below then circle the answer on your answer sheet to questions 16 and 17.

You received a total of 1300 official ballots. After the polls have closed you find that you have 6 spoiled ballots, 918 unused ballots, 9 provisional ballots, and 366 voted ballots. Your instructions inform you that the sum of the spoiled, unused, provisional, and voted ballots must agree with the total number of ballots received. This procedure is called balancing the Roster-Index. Sometimes the count will be off. If the Roster does not balance and the reason is known, the poll worker must write the reason on line 7 on the front of the Roster-Index. If the reason is not known, "No Reason" is written on line 7 of the Roster-Index. It is important this phase of balancing the Roster-Index does not delay getting all supplies to the count center by 9:30 p.m.

16. What is the total number of spoiled, unused, provisional, and voted ballots?

- A) 1300
- B) 1269
- C) 1289
- D) 1299

17. If the Roster-Index did not balance in #16 above, by how much was it off?

- A) 3
- B) 5
- C) 1
- D) none of the above

559

Marilyn Gerkin
Supervisor of Elections
Sarasota County Florida



April 26, 2000

Janis K. Womack
City Secretary
630 E Hopkins St
San Marcos TX 78666

Dear Ms. Womack:

I am enclosing our entry in the Professional Practices Program entitled "Working With Disabled Persons."

Sarasota County is located along the Gulf Coast approximately fifty miles south of the Tampa/St. Petersburg area. There are just over 212,000 registered voters of whom more than 83,500 are 65 or older, and 3,312 registered voters are ninety or older!

Sincerely,

A handwritten signature in cursive script that reads "Marilyn Gerkin".

Marilyn Gerkin
Supervisor of Elections

Enc.

Do Something...✓OTE!

101 S Washington Blvd, Sarasota FL 34236-6993 • PO Box 4194, Sarasota FL 34230-4194
Phone 941.951.5300 • Fax 941.953.7115 • <http://srqelections.com>

Professional Practices – Working with Disabled Persons

Submitted by Marilyn Gerkin
 Sarasota County Supervisor of Elections
 PO Box 4194
 Sarasota FL 34230-4194

Ideally every voter with a disability would be able to go to the polls and cast their ballot without assistance. While this is not yet feasible, I have taken many steps to make it easier for voters with disabilities to participate in the electoral process. I have also made people more aware of the problems disabled voters encounter. The following are some of our accomplishments:

- ★ **Sign Language** - I accompany a portion of my televised public service announcements with sign language, and I have been told that this is an important step in reaching out to hearing-impaired voters.
- ★ **Braille and Large Print Sample Ballots** - Working in conjunction with the Manasota Lighthouse for the Blind, I have made a Braille version of a sample ballot available to any voter who has requested one. I have also produced and distributed Large Print sample ballots to voters who are visually impaired. Copies of the Large Print sample ballot were sent to every precinct in the recent Presidential Primary. I have received a number of letters and notes thanking us for this service.
- ★ **Approved Web Site** – Our Web Site www.srcelections.com is certified to be 100% compatible with text-only browsers used by physically challenged individuals as designated by the Web Accessibility Initiative www.w3c.org. It has also been awarded the Bobby Approved seal for compatibility testing by the Center for Applied Special Technology which works with the U.S. Department of Education's Office of Special Education Programs in developing curriculums for disabled or physically-challenged individuals.
- ★ **Disabled Temporary Employee** - I hired a programmer with impaired hearing and vision to work on a project to facilitate electronic filing by candidates. This disabled person created a very user-friendly handbook. One of the side benefits of having this disabled person work in our office for several months was improved sensitivity on the part of my employees, most of whom had never worked with a disabled person. My employees really benefited from the learning experience.
- ★ **Easter Seals** - I have paid Easter Seals/MARC to have their personnel perform some meaningful tasks with respect to voting. Disabled persons associated with Easter Seals of Southwest Florida have assembled thousands of packets of materials that are sent out with each absentee ballot.
- ★ **Information for Nursing Homes** - I provide informational packets to all nursing home directors to help get their residents registered and/or receive absentee ballots. A packet is prepared before each election or series of elections, and it includes current information that can be used by the nursing homes to help their residents participate in the process.

Professional Practices – Working with Disabled Persons

- ★ **Access to Polling Places** - I established a program to re-inspect every polling location this year to make sure that they are accessible to people using wheelchairs, walkers, etc. Two members from my staff, armed with a check-off list, have visited every polling place in the County, and each location was re-evaluated. In some cases, we were able to make recommendations to the owner or custodian to make small changes to improve accessibility for disabled persons. In other cases we became more aware of the deficiencies at a polling place and started looking for alternative locations.
- ★ **Transportation to Polling Places** - I have worked with the Sarasota County Area Transit to provide free bus transportation to and from the polls on election day. Voters are asked to show their voter ID cards, and the bus ride is "on the house."

Individually these are not major undertakings, but I believe that in making others aware of the problems encountered by disabled voters, we all benefit. Recently I received an award for our support and service to the Citizens With Disabilities Advisory Board, recognizing my office for our efforts to improve voting-related activities by disabled persons. Working together we can make a difference!

562

The Election Center
Professional Practices Paper

Audio Local Voters' Guide

Submitted by

Sam Reed
Thurston County Auditor
2000 Lakeridge Drive SW
Olympia, WA 98502

For information on this program,
Contact: Kim Wyman
Phone: 360-786-5408
Fax: 360-786-5223
E-mail: wymank@co.thurston.wa.us

The Election Center
Professional Practices Paper

Abstract of Program

The Auditor's Office wanted to provide voters with visual impairments or other special needs with an alternative method of accessing the Local Voters' Pamphlet. The program needed to be low cost and easy to implement. Local Voters' Pamphlets contain information on candidates, issues, polling locations, voter registration, absentee ballots, and local jurisdictions. The pamphlets have been available in print and on the office web page. The Audio Local Voters' Guide was created to provide voters with an alternative source for the information.

The Auditor's Office main goal was to find a low cost method of reaching this population that would also indicate how many voters needed the service. The Internet provided one solution. Voters could download the web page version and print it with larger type. The main problem with this solution was that it required the voter to have Internet access.

Thurston County collaborated with the City of Tumwater to produce the audio version of the pamphlet by utilizing the city's interactive phone system. The candidate statements were recorded and organized in the telephone system for easy access by the user. Once operational, voters could call into a designated phone number and use the touch tone keypad on their phone to access the menu. Voters were able to choose the candidate statements in which they wanted to listen.

Description of the Program

The General Election Audio Voters' Guide planning began in August. The county contacted the City of Tumwater and asked if the city's interactive phone system could be used to facilitate an audio guide. The county's system could not accommodate the guide's menu. The city allowed the county to access the system with no direct cost to the county.

The county staff coordinated the production of the print version of the General Election Local Voters' Pamphlet throughout August and September. The Local Voters' Pamphlet is the primary source of neutral election information for the voters of the county. When the print version of the voters' pamphlet was complete in mid-September, production of the audio guide began.

One staff member from the county spent a day and a half recording each of the 54 candidate statements and setting up the phone menu tree. Once the phone tree was in place, callers could access the system. The system was available on October 1 through November 2.

The availability of the audio pamphlet was publicized in press releases, in the print version of the pamphlet, and on the Auditor's web page. The local media covered the

availability of the system and helped promote it through articles and announcements. Voters called into the phone system and worked through a series of menu choices to hear the candidate statements of their choosing. They could repeat or skip sections by punching keys on their phone pad. The system received 115 calls.

The City of Tumwater used the Active Voice Corporation (Seattle) Repartee System. The system was a digitally integrated voice messaging system with expanded use capabilities. For this project, the one key dialing feature was used by chaining together voice mail boxes to create the menu driven pamphlet.

The Cost of the Program

The program was very inexpensive to administer. Access to the system was provided at no charge to the county. The city did not incur additional expenses, as the system was able to handle the county's information without increasing the capacity of the existing hardware or software.

One staff member from the county spent approximately two hours organizing the menu system and eight hours recording the messages. Recording was the most time consuming piece of the program. The total cost of the program was approximately \$200.

The Success of the Program

The Audio Local Voters' Guide received 115 calls in the month it was available. The program gave voters with special needs the opportunity to access election information in a user-friendly manner. Like the Internet, it was convenient for the voter. All they needed was a telephone and they could use the system any time day or night. The advantage over the Internet was that most people have a telephone, but not all people have access to a computer.

For less than two dollars per user, the cost of implementation was significantly less than it would have been to print a larger type voters' pamphlet. The final result of the program was that it gave the county a gauge of how many voters would utilize an alternative medium of obtaining the election information.

This program was a simple, low cost solution to meeting the special needs of members of our community. The program was easy to administer and could be applied to many different programs in local and state government. Jurisdictions around the country utilize phone systems with interactive capabilities for their daily operations. This is an application of that technology that provides a needed service to a growing population within communities across the country. As our population gets older, there will be more people with special needs. This is a method of meeting their needs with little cost to the jurisdiction and high return for the voter.

565

Quick Reference Checklists

Professional Practices Paper

Submitted by Dana DeBeauvoir

Travis County Clerk

Professional Practices Paper
Travis County Clerk's
Elections Division

QUICK REFERENCE CHECKLISTS

The Travis County Clerk's Elections Division has always conducted comprehensive training sessions and produced detailed guidebooks for its pollworkers. These sessions and guidebooks are designed to give the pollworkers all the regulation and process information needed to conduct voting. The guidebooks, which are distributed at the training sessions, are several chapters long and contain detailed information on procedures for setting up polling locations, conducting voting, and closing polling locations. Although these books contain much useful information, we concluded that the pollworkers would benefit from simple checklists collected in one place for a convenient quick reference source. To meet this need, we designed a Quick Reference Checklist.

The Quick Reference Checklist was originally designed for use by Election Day pollworkers. To begin, we outlined the four basic functions that the Election Day Judges must perform:

1. **Making polling place arrangements before Election Day,**
2. **Setting up the polling place for Election Day,**
3. **Processing voters, and**
4. **Closing the polling place at the end of voting.**

The Quick Reference Checklist was printed on card stock on the front and back so that it could be used as a tent card (see attachment A). We produced enough checklists to give two tent cards to each Election Judge. We distributed the checklists at the training classes and instructed the Election Judges to use them with the detailed guidebooks.

At the training classes, the novice judges appreciated the checklists because they condensed a great deal of detailed information into user-friendly, basic checklists. But, we had not anticipated the reaction the Quick Reference Checklist drew from the veteran Election Judges. The veteran Election Judges applauded the checklist at some of the training sessions, and most of them took four of five of the checklists back to share with their clerks and to use at the polls. Due to this unanticipated response, we had to print several hundred more checklists in order to have enough for the remainder of the training sessions. The Election Judges also requested that we include extra checklists in their Election Day supply boxes so they would be sure to have enough for Election Day.

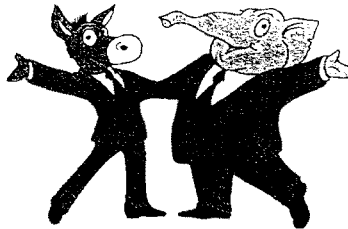
Because of the enormous success of the Election Day Quick Reference Guides, we designed a similar checklist for the Early Voting pollworkers to use in the April Runoff Election. Early Voting extends over a longer period of time and involves many different situations than Election Day, so we decided to adopt a different style for the Early Voting Checklist. How would we address shift changes, end of the day close out, or the final close out of the Early Voting polling locations? To meet these needs, we designed a flip chart containing the following eight topics for Early Voting (see attachment B):

1. **Important Phone Numbers,**
2. **Setting Up – Before Early Voting Begins,**
3. **Opening Your Polling Place,**
4. **Processing a Voter,**
5. **Shift Change Checklist,**
6. **End of Day Checklist,**
7. **Last Day Checklist, and**
8. **Close-Out Checklist**

We produced the Early Voting checklists and placed them in each location's supplies for Early Voting. The Early Voting workers, like the Election Day workers, said that the combined checklists were extremely helpful in eliminating time spent searching through the detailed guidebooks for checklists. They also appreciated the inclusion of an "Important Phone Numbers" section that they could use at a moment's notice.

The Election Day Quick Reference Checklists and Early Voting Flip Charts implemented for the 2000 Primary and Runoff Elections were a huge success. These checklists, originally designed to reduce errors at the polls and condense a large amount of information to a manageable level, also empowered these front-line employees by giving them a valuable tool to use throughout the day. (Our Elections Call Center actually saw a reduction in calls from judges on Election Day for the Primary and Runoff Elections from Election Day in November, 1999). In addition, almost all of our novice pollworkers agreed to return to work the November election (something which does not usually occur), demonstrating that pollworkers are more likely to work again when they feel confident in performing their election duties.

April 11, 2000 Democratic and Republican Joint Runoff Election



Early Voting Flipchart

- ✓ Important Phone Numbers
- ✓ Setting Up - Before EV
- ✓ Opening Your Polling Place
- ✓ Processing a Voter
- ✓ Shift Change Checklist
- ✓ End of Day Checklist
- ✓ Last Day Checklist
- ✓ Close-Out Checklist

Increasing Electoral Participation
Among 18-24 Year-Olds

Professional Practices Paper

Submitted by Dana DeBeauvoir

Travis County Clerk

Increasing Electoral Participation among 18-24 Year-olds

The arrival of the new millennium is causing many to evaluate society and reflect upon its improvement. As citizens of the United States, our reflection upon the current state of democracy is inevitable. It is not surprising that we ask ourselves: how can we achieve a more inclusive democracy? One method of achieving a more inclusive democracy is to increase electoral participation among disenfranchised voters, such as 18-24 year-olds. In 1972 (one year after the 26th Amendment was passed), voter turnout among 18-24 year-olds was 47.5%.¹ Twenty-four years later, voter turnout among 18-24 year-olds has fallen to just 28.7%.² Such a drastic drop in voter turnout has prompted Travis County to target this politically apathetic segment of the population in an effort to increase the political participation among this group.

Attempts have already been made to increase the turnout among this demographic. For instance, the Motor Voter Law passed in 1993, is intended to make voter registration more convenient for all citizens.³ While the Motor Voter Law has increased the number of registered young voters, the problem of getting these voters to the polls on Election Day still remains. Travis County makes voting more convenient with its early voting program. By bringing the voting booth to the voter, the likelihood of electoral participation among disenfranchised voters increases. While early voting increases the likelihood that constituents will vote, the early voting program aims at increasing voter turnout among all voters and does not specifically target youth. Travis County has decided to take a more aggressive approach to the issue of low voter turnout among 18-24 year-olds. As part of our Early Voting Program, Travis County Clerk Dana DeBeauvoir has devised a program specifically targeted at youth, which intends to increase the number of registered voters and the turnout among 18-24 year-olds. Implemented in 1992, Mock Election serves as both a teaching tool and a practical approach to involve youth in the election process.

Mock Election

The Travis County Mock Election program consists of holding a simulated election in local high schools where seniors can cast their votes. Mock elections, held a few weeks prior to an actual election, aim to heighten student awareness about the upcoming election. Travis County asks participating high schools to provide an adult sponsor and student volunteers who will attend training to run the mock election. The sponsor, usually a teacher or parent volunteer, supervises the running of the mock election, while student volunteers serve as election judges and clerks. Travis County provides mentors, who volunteer to share their experiences as Travis County election

¹ Internet Source: Gerald Murphy, "Amendments to the Constitution of the United States" www.bigduck/ammendm.html, accessed on April 26, 2000.

² Internet Source: U.S. Bureau of Census, "Percent of Persons 18 to 24 Years Reported Vote, by Race and Hispanic Origin: November 1964 to Present" <http://www.census.gov/population/socdemo/voting/history/vot03.txt>, accessed on May 1, 2000.

³ Internet Source: League of Women Voters, "A Citizen's Guide to the National Voter Registration Act of 1993" <http://lwv.iowa.cornell-iowa.edu/National/EduFund/VoterAct/TOC.html>, accessed on May 3, 2000.

judges, both assisting teachers in running the election and answering students' questions regarding the upcoming election.

Prior to the Mock Election, flyers are sent to participating schools to advertise the upcoming election. In addition, Travis County conducts training classes for adult sponsors and student volunteers. In class, students learn about the various forms and procedures used in polling places on Election Day. In addition, adult sponsors pick up the ballots, ballot boxes, voting booths and the necessary election supplies for the Mock Election. In order to simulate an actual election, Mock Election ballots contain all the races and candidates listed on the ballots used for Election Day.

On Mock Election Day, students run their school's Mock Elections as if they were running an actual polling place. With the guidance of adult sponsors and mentors, students receive hands-on experience on conducting a polling place. Such experience provides these students with a unique perspective on the democratic process. In addition, Travis County supplies student volunteers with voter registration cards in order to register eligible classmates to vote in future elections.

After Mock Election, Travis County invites adult sponsors and student volunteers to assist in the tabulation of their schools' election results at Central Counting Station. Using the County's optical scan counting equipment, adult sponsors and student volunteers have the opportunity to run the ballots through the tabulators. The election results of participating high schools are posted alongside the actual results on Election Night. Finally, Travis County offers registered students the opportunity to work on Election Night, providing yet another learning experience.

Mock Election is a learning experience unlike any previously encountered by students in the classroom. This experience is unique because the students conduct their own elections and observe the process first-hand. They learn that the voting process is not as complicated as it seems and that they have the ability to impact the world around them through electoral participation.

Travis County regards the 2000 Presidential Election as a challenge and an opportunity. This election is seen as a challenge because of an anticipated high voter turnout. However, this election serves as an ideal opportunity to allow potential young voters to participate in the electoral process. Travis County encourages election officials to conduct Mock Elections and increase the likelihood that students register and take advantage of their right to vote. Mock Elections instill a lifetime habit of voting by demystifying the electoral process and making the polling place less intimidating to students. Travis County strongly believes that the education and preparation of our youth today assists them in becoming effective political participants tomorrow.

Getting Ready

Before Voting Begins . . .

- I. What kind of Election is This?**
- II. Election Worker Oath**
- III. Supply Preparation**
- IV. Voting Area Arrangement**
- V. Poll Opens**

I. What kind of election is this?

The Travis County Clerk Commission and the Democratic and Republican Party Chairs have agreed to conduct a Joint Primary Election. A Primary is an election in which members of a political party vote on which candidates will appear on the November ballot. Because this is the presidential primary election, we expect to have a high voter turnout, both for the mock election on March 7, and the actual election on March 14.

Your mock election on Tuesday, March 7th will take place on an exciting day. Known as "Super Tuesday", fourteen states will conduct their presidential primary on this day. However, the results from this student mock election will not be released until March 14, the date on which the Texas primary and five other state primaries will take place. Undoubtedly, your mock election on Super Tuesday will provide students, parents, and faculty with much to talk about.

Because this is a primary election, both the Republican primary and the Democratic primary (two separate elections) will simultaneously occur at your polling place. Voters will have the choice of voting in either the Democratic or the Republican primary, but not both.

This book provides instructions on how to conduct the mock election. Be sure to keep the materials for each primary separate you are administering two separate elections! For the mock election, we will

assume that all high school seniors attending a particular school reside in the precinct in which the school is located. Thus, you will have ballots for only one precinct.

Write-ins: Some ballots may have spaces for write-ins. The certified write-in names will be listed on the "**Make Your Vote Count**" flyer posted in each voting booth. Only the write-in votes for the declared write-ins will be counted.

II. Election Worker Oath:

Your first duty is to ensure that all election workers are sworn in. All students, faculty and volunteers helping to conduct the election are considered election workers and must read and sign the **Oath of Election Worker** before they begin work.

III. Supply Preparation:

To save time during the voting period, prepare as much material as you can on the day before the election:

- Go through all of your supplies and compare them with the **Materials for Mock Election** check off list (see sample materials list on page 13). If you are missing any materials (or are low on any materials during the day), call the Elections Division Call Center at **473-9553** and dial **0** as soon as the recording begins. A runner will bring the materials to your school as soon as possible.

- Stamp all ballots with the **MOCK ELECTION** stamp on the back of the ballot in the lower right corner. Stamp a stack of approximately 100 ballots for each party; if you run low, stamp more as time allows. All ballots **MUST** be stamped with the "MOCK ELECTION" stamp before they are voted. Otherwise, they will not be counted.
- As you stamp each ballot, check to see if it is **defectively printed**. Defectively printed ballots are ballots that are blank or have ink spots, upside-down print, or any other irregularities. If you find any defectively printed ballots, call the Elections Division immediately at 473-9553, place them in the **Spoiled Ballots** envelope and account for them on the **Register of Official Ballots** (see page 10). We will provide you with a **Ballot Inventory List** with *precinct, stock code, and quantity of ballots* noted for each school. Be sure the **stock code** is correct (three-digit number on the lower, left-hand corner of the front of the ballot) for your precinct. Your stock code number is printed on the label of your ballot box.
- Go through all of your forms and fill out any information that you can ahead of time, such as your precinct number (also found on your ballot box label) and school name.
- Prepare the Special Stock of **Challenge Ballots, Stubs and Envelopes**. Prepare five ballots, not in sequential order, in the following manner: with a plastic paperclip, attach a completed **Ballot Stub** to each **Challenge Ballot**. Write the name and date of the election, the ballot number, and the precinct number on the **Ballot Stub**. Also prepare five **Ballot Stub Envelopes**, filling in your precinct number and the name and date of the election. Place all these materials in the yellow **Stub Stock Folder**.
- Follow the instructions on the supply box and lay out or store all materials according to the diagram on page 5. Materials listed on the diagram under "Supply Box" are materials that all workers will use. These materials should be kept in the supply box when not in use. All materials not listed under "Supply Box" are for either the Sign-In or Check-In areas, (see listings on diagram). Voter Check-In materials are the items needed to allow each qualified person to vote. Your "**List of Registered Voters**" will be a copy of your school's senior roster. These are the people eligible to vote in your polling place. The Mock Election Sponsor for your school will provide you with this list. As students vote, you will stamp either "Democrat" or "Republican" next to their name, depending on the primary in which they vote. This will enable you to keep track of who has voted and who has not and ensure that no one votes twice.

Don't Forget to Vote!!!!

**It never fails...
Election workers get
so busy working in
the election that they
completely forget to
vote. So don't forget
to set some time aside
to vote.**

Voter Qualification Procedures

Voting Begins . . .

- I. Voter Check-In**
- II. Sign-In**
- III. Ballot Selection**
- IV. Ballot Procedures**
- V. Special Procedures**

I. Voter Check-In:

Step 1 Check-In Clerk asks voter for school ID. If the voter does not have his/her school ID, the clerk can accept any of the following forms of identification:

- i. A driver's license or personal identification card issued by the Texas Dept. of Public Safety or similar documents from other states, **or**
- ii. A form of I.D. containing a photograph that establishes a person's identity (like a school ID), **or**
- iii. A birth certificate, **or**
- iv. United States Citizenship papers, **or**
- v. United States Passport, **or**
- vi. Preprinted checks containing the person's name that are issued from a financial institution doing business in Texas, **or**
- vii. Official mail addressed to the person from a government agency, **or**
- viii. Two other forms of identification that establishes a person's identity (i.e., credit cards).

If the voter has no ID, but an Election Official knows him/her, that Official may attest to the voter's identity by initialing the "**Election Worker Affidavit**" on the far right side of the **Combination Form**. If the voter has no ID and is not

recognized by an election official, the voter must be rejected for voting. The clerk must then put the voter's name, address, and the reason the voter was rejected on the **List of Persons Rejected for Voting**. The voter may return later to the polling place with an acceptable ID and vote.

Step 2 The Check-In Clerk looks up the voter on the **List of Registered Voters** (senior roster).

Step 3 Check-In Clerk asks the voter whether they will vote in the Democratic primary or the Republican primary. The Check-In Clerk then stamps "Dem" or "Rep" by the voter's name on the **List of Registered Voters**, (senior roster).

Step 4 Check-In Clerk directs voter to Sign-In Area.

Step 5 If the voter's name is not on the **List of Registered Voters**, the voter may vote by **Challenge Affidavit** only: See page 8 for the procedures.

Challenge Affidavit Process:

The Election Judge must handle **Challenge Affidavits**. The Judge begins by offering the Affidavit, informing the voter that it is a legally binding document. The challenged voter completes the Challenge Affidavit form.

If the Election Judge allows the voter to vote, s/he and the voter sign and date the Affidavit. The voter then continues with the challenged voting process.

Enter the voter's name on the "Registration Omissions List" and **Combination Form**. Enter "Sworn" next to the voter's name on each document.

If you deny a voter, record that voter's name, address and the reason the voter was rejected on the **List of Persons Rejected for Voting**. Reject the voter if s/he does not complete the **Challenge Affidavit** with the facts necessary to support the voter's eligibility to vote. Enter voter's name on the **Registration Omissions List**. Then write "Rejected" next to the voter's name on the document completed. Also enter the voter's name on the **List of Persons Rejected for Voting**, with a check in the #4 box.

Remember, you cannot deny someone's right to vote without a very good, legal reason.

An accepted voter will choose a ballot from the special **Stub Ballot Stock Folder** for challenged voters. The ballot that the voter chooses should have a **Ballot Stub** attached with the serial number already written on the form. The voter will sign the ballot stub, put the stub into the **Ballot Stub Envelope**, and seal the envelope.

Q. What do you do if the voter requires assistance, (i.e., is disabled or doesn't read English or Spanish)?

A. The voter may request **assistance** because s/he is disabled, blind, or cannot read English or Spanish. If this happens, the voter can either bring his/her own assistant/interpreter (who does not have to be a qualified voter) or request help from one of the election workers. If the voter requests the assistance of an election worker, then two workers must attend to the voter. Otherwise, the voter and his/her assistant can be left

alone. Assistants/Interpreters have to take the **Oath of Assistance/Interpreter** every time they assist a voter unless they are election workers. An assistant must also enter his/her name and address on the **Combination Form** in the space provided next to the name of the voter assisted. Election workers only have to take the oath once to assist any number of voters. **Remember . . .** it is your sworn duty to do everything possible to ensure that everyone who is eligible to vote is able to vote.

Q. What do you do if a voter cannot enter the polling place?

A. An election official shall deliver a ballot to the voter. The voter is qualified as usual. If the voter is unable to sign his/her name, the election official should note why the voter is unable to sign. The official must ask the voter if s/he wants to deposit the ballot in the box or wants someone else to do so.

Earn Extra Money!

If you are a registered voter, consider working at a polling place on Election Day. For students who are at least 16 years of age or older, but not yet registered to vote, positions are available at Receiving Substations on Election Night. Shifts are available throughout the day, at \$5.15/hr. Contact the Travis County Clerk's Elections Division at 473-9553, or fill out the attached sign-up sheet and fax to 473-9075. Please indicate you are a student.

Close Out and Delivery

After Voting has ended . . .

There are three steps to closing out your voting area:

I. Checks and Balances

II. Supply Breakdown

III. Ballot Delivery

I. Checks and Balances:

- Anyone in line at your scheduled closing time must be allowed to vote.
- After voting ends, go through your forms and make sure all necessary information has been filled out correctly. (Use page 13 as a check list for this process).
- When you are done, no form should be left blank, except for the **Challenge Affidavit**, **Oath of Assistance/Interpreter**, **Standard Affidavit**, and **Thrown Out Ballot Register**, if you have not had a situation where those forms would be used. Even if you do not have any spoiled ballots, you should still fill out the **Register of Spoiled Ballots** to reflect that you had zero spoiled ballots.
- Double check that the "**Register of Official Ballots**" form is filled out completely and correctly, according to how many ballots have been voted. You can do this by comparing the number of voters who have signed the combination form with the number of "Voted" stamps by senior names.

Make sure you document all defectively printed and spoiled ballots. Remember, ballots are like money - every ballot, like every bill in a cash drawer, must be accounted for. In an election, even a few lost ballots is enough reason for a candidate or a judge to contest an election.

GRADUATING SENIORS!!

Are you heading off to college? If you are, and you plan to maintain a permanent address in Travis County, you will be eligible to vote **BALLOT BY MAIL**, once you register to vote. For details, on the ballot by mail program, contact the County Clerk's office at 473-9553, 0.

GAO

United States General Accounting Office
Report to the Congress

March 2001

ELECTIONS

The Scope of
Congressional
Authority in Election
Administration



GAO

Accountability • Integrity • Reliability

GAO-01-470



United States General Accounting Office
Washington, DC 20548

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March 13, 2001

The President of the Senate
The Speaker of the House of Representatives

Events surrounding the last presidential election have led to intense national interest in voting processes and the administration of elections. As part of the broad congressional interest in this issue, we received a joint inquiry from Senator Trent Lott, Republican Leader; Senator Tom Daschle, Democratic Leader; Senator Mitch McConnell, Chairman, and Senator Christopher Dodd, Ranking Member, of the Senate Committee on Rules and Administration. The Senators asked that we review the current federal role, and limitations thereof, in the administration of elections.

In order to address the federal role in election administration, we reviewed: (1) the constitutional framework for the administration of elections, focusing on Congress' authority to regulate congressional, presidential, and state and local elections, as well as its authority to provide grants to support election processes; and (2) major federal statutes enacted in the area of election administration.

In summary, the constitutional framework for elections contemplates both state and federal roles. States are responsible for the administration of both their own elections and federal elections. States regulate various phases of the elections process and in turn incur the costs associated with these activities.

Notwithstanding the state role in elections, Congress has authority to affect the administration of elections in certain ways. Congressional authority to legislate in this area derives from various constitutional sources, depending upon the type of election. With regard to the administration of federal elections, Congress has constitutional authority over both congressional and presidential elections.

- Congress' authority to regulate congressional elections derives primarily from Article I, Section 4, Clause 1 of the Constitution (known as the Elections Clause). The Elections Clause provides that the states will prescribe the "Times, Places and Manner" of congressional elections, and that Congress may "make or alter" the states' regulations at any time, except as to the places of choosing Senators. The courts

have held that the Elections Clause grants Congress broad authority to override state regulations in this area. Therefore, while the Elections Clause contemplates both state and federal authority to regulate congressional elections, Congress' authority is paramount to that of the states.

- With respect to presidential elections, the text of the Constitution is more limited. Specifically, Article II, Section I, Clause 4, provides that "Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States." Despite this limited language, the Supreme Court and federal appellate courts have upheld certain federal statutory provisions regulating presidential elections that go beyond regulating the "time" of choosing the electors. However, because federal legislation that relates solely to the administration of presidential elections has been fairly limited, case law on this subject has been sparse. Consequently, the precise parameters of Congress' authority to pass legislation relating to presidential elections have not been clearly established.

For state and local elections, Congress does not have general constitutional authority to legislate regarding the administration of these elections. However, Congress has the authority, under a number of constitutional amendments, to enforce prohibitions against specific discriminatory practices in all elections, including federal, state and local elections. For example, constitutional amendments prohibit voting discrimination on the basis of race, color, or previous condition of servitude (Fifteenth Amendment), sex (Nineteenth Amendment), and age (Twenty-sixth Amendment). In addition, the Equal Protection Clause of the Fourteenth Amendment provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws." Each of these Amendments contains an enforcement clause, allowing Congress to pass legislation to enforce the substantive rights promised in the Amendment. In addition to direct regulation of the administration of elections, Congress may, in the exercise of its spending power, encourage state action by attaching certain conditions to the receipt of federal funds.

Congress has passed legislation relating to the administration of both federal and state elections, pursuant to its various constitutional powers. Federal legislation has been enacted in several major functional areas of the voting process, as described in more detail below. These areas include the timing of federal elections; voter registration; absentee voting requirements; accessibility provisions for the elderly and handicapped; and prohibitions against discriminatory voting practices.

Constitutional Framework

The constitutional framework for elections contemplates both state and federal roles. States, in the first instance, regulate the elections process, including, for example, ballot access, registration procedures, absentee voting requirements, establishment of polling places, provision of election day workers, and counting and certification of the vote. The states in turn incur the costs associated with these activities. As described by the Supreme Court, "the States have evolved comprehensive, and in many respects complex, election codes regulating in most substantial ways, with respect to both federal and state elections, the time, place, and manner of holding primary and general elections, the registration and qualifications of voters, and the selection and qualification of candidates."¹ While election policy and procedures are legislated primarily at the state level, states typically have decentralized this process so the details of administering elections are carried out at the city or county levels, and voting is done at the local level.

Although the states are responsible for running elections, Congress has authority to affect the administration of elections. Congress' authority to regulate elections derives from various constitutional sources, depending upon the type of election. With regard to federal elections, Congress has constitutional authority over both congressional and presidential elections. Article I, Section 4, Clause 1, known as the Elections Clause, provides Congress with broad authority to regulate congressional elections:

"The Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators."

Article II, Section 1, Clause 4, pertains to Congress' power to set the time of choosing of presidential electors:

"The Congress may determine the Time of choosing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States."

In addition, with respect to federal, state and local elections, a number of constitutional amendments authorize Congress to enforce prohibitions against specific discriminatory practices.

Congress' Authority to Regulate Congressional Elections

Congress' authority to regulate congressional elections derives primarily from the Elections Clause, quoted above. The Elections Clause requires, in the first instance, that the states are to prescribe the times, places and manner of holding elections for Senators and Representatives.² Congress, under the Elections Clause, "may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators."³

The Elections Clause is broadly worded and has been broadly interpreted by the courts. As early as 1879, in *Ex Parte Siebold*, the Supreme Court found Congress' powers to regulate congressional elections to be plenary and paramount.⁴ The Court in *Siebold* upheld the power of Congress to impose penalties for the violation of state election laws regulating the election of members to the House of Representatives. Petitioners in the case (who were election officials convicted under the statute) argued that Congress had no constitutional power to make partial regulations intended to be carried out in conjunction with regulations made by the state. They argued that, under the Elections Clause, when Congress makes any regulation on the subject, it must assume exclusive control of the whole subject.⁵ The Court rejected this argument, stating that the power to regulate congressional elections "may be exercised as and when Congress sees fit to exercise it" and "[w]hen exercised, the action of Congress, so far as it extends and conflicts with the regulations of the State, necessarily supersedes them. This is implied in the power to 'make or alter.'"⁶

Similarly, in 1884, the Supreme Court, in *Ex Parte Yarborough*, upheld the authority of Congress under the Elections Clause to enact federal criminal code provisions protecting the act of voting in congressional elections from violence and intimidation.⁷ The Court, noting that it was not until 1842 that Congress took any action under the Elections Clause, stated that "it is only because the Congress of the United States, through long habit and long years of forbearance, has, in deference and respect to the States, refrained from the exercise of these powers, that they are now doubted."⁸ Referring to previous actions Congress had taken to protect the integrity of the elections process, the Court stated that when Congress "finds it necessary to make additional laws for the free, the pure, and the safe exercise of this right of voting, they stand upon the same ground and are to be upheld for the same reasons."⁹

In the Supreme Court's 1932 decision in *Smiley v. Holm*, the Court dealt with the legislative procedures states must follow in reapportioning congressional districts.¹⁰ The Court wrote that Congress has a general supervisory power over the whole subject of congressional elections, and stated that in exercising this power Congress "may supplement...state

regulations or may substitute its own."¹¹ In frequently quoted dicta, the Court found the "comprehensive words" of the Elections Clause to:

"... embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved."¹²

Subsequent decisions have similarly acknowledged Congress' broad powers under the Elections Clause. In 1941, the Supreme Court, in United States v. Classic, construed the Elections Clause, as a means of protecting the integrity of elections, to grant Congress the authority to regulate congressional primary elections.¹³ The Court in Classic held that where state law makes the primary election a "necessary step" of choosing representatives, such an election is an election within Congress' power to regulate under the Elections Clause.¹⁴

As recently as 1997, the Supreme Court reiterated in Foster v. Love that the Elections Clause invests the states with responsibility for the mechanics of congressional elections, but only so far as Congress declines to preempt state legislative choices.¹⁵ The Court in Foster found that the regulation of the time of elections for Representatives and Senators was a matter on which the Elections Clause explicitly gave Congress the final say, and thereby voided a conflicting state statutory scheme.¹⁶ It is well settled, wrote the Court, that the "Elections Clause grants Congress 'the power to override state regulations' by establishing uniform rules for federal elections, binding on the States."¹⁷

Federal appellate courts have also interpreted the Elections Clause as conferring broad authority on Congress, in the context of challenges to the National Voter Registration Act of 1993 (NVRA), known as the "motor voter" law.¹⁸ The three U.S. Court of Appeals cases discussed below upheld the constitutionality of the NVRA, and in doing so addressed the extent to which Congress may use the states to implement regulations enacted under the Elections Clause.

The NVRA requires states to establish certain procedures to facilitate the registration of voters in federal elections, both congressional and presidential. Among other duties imposed on the states, the Act requires states to allow registration by mail, in person during application for a

driver's license, and in person at various types of state agencies and offices. Three states—Illinois, California, and Michigan—refused to comply with NVRA, arguing that Congress overstepped its authority to regulate federal elections. The appellate courts rejected their claims in ACORN v. Miller, 129 F.3d 833 (6th Cir. 1997) (Michigan); Voting Rights Coalition v. Wilson, 60 F.3d 1411 (9th Cir. 1995), *cert. denied*, 516 U.S. 1093 (1996) (California); and ACORN v. Edgar, 56 F.3d 791 (7th Cir. 1995) (Illinois).

In all three cases, the courts found that the NVRA was a permissible exercise of Congress' broad authority to "make or alter" regulations regarding federal elections under the Elections Clause.¹⁹ Thus, for example, the court in Wilson stated that "the Supreme Court has read the grant of power to Congress in Article I, section 4, as quite broad,"²⁰ and that NVRA, "on its face, fits comfortably within its grasp."²¹

The courts rejected arguments advanced by the states that Congress was prohibited by the Tenth Amendment²² from imposing upon states the burden of administering the federal voter registration program. The states relied primarily on New York v. United States, in which the Supreme Court held that Congress was not authorized under the Commerce Clause to directly compel the states to enact and enforce a federal regulatory program.²³ In rejecting the Tenth Amendment arguments advanced by the states, the NVRA courts, in general, distinguished New York on the basis that the Elections Clause, unlike the Commerce Clause, empowers Congress to impose on the states precisely the burden at issue.²⁴ As described by the court in Edgar,

"[The Elections Clause] does not authorize Congress only to establish a system of federal voter registration. The first sentence, remember, requires the states to create and operate such a system and the second authorizes Congress to alter the state's system—but it is still the state's system, manned by state officers and hence paid for by the state."²⁵

The court in Miller likewise observed that the Elections Clause "explicitly grants Congress the authority to force states to alter their regulations regarding federal regulations, and does not condition its grant of authority on federal reimbursement."²⁶

The NVRA cases did, however, suggest that Congress' power under the Elections Clause may not be limitless. For example, the court in Edgar recognized that there could be circumstances where Congress might go so far in regulating state activity that it would be beyond "merely altering the

state's regulation of federal elections.²⁷ This court posited what it referred to as the "extraordinarily unlikely" scenario whereby Congress might conscript "all employees of the state [to be] full-time federal voting registrars in order to make sure that every eligible federal voter in every state was registered."²⁸ In addition, while the court in *Wilson* recognized Congress' broad powers under the Elections Clause, it expressed sensitivity to the significant costs that states may incur in carrying out congressional election regulations.²⁹

While the Constitution contemplates broad state and federal authority to regulate congressional elections, Congress' authority under the Elections Clause has been interpreted to be paramount to that of the states.³⁰ The Supreme Court has clearly stated that the Elections Clause grants Congress the power to override state regulations by establishing uniform rules for federal elections, binding on the States.³¹

Congress' Authority to Regulate Presidential Elections

While Congress has the explicit authority under the Elections Clause to regulate the times, places, and manner of congressional elections, with respect to presidential elections, Article II, Section 1, Clause 4 simply provides that the "Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States." At the time of the Constitution's adoption in 1787, general elections for President were not contemplated.³² The Constitution provides, instead, for the election of the President by electors appointed by each state.³³ The state legislatures are empowered to direct the manner in which the electors shall be appointed,³⁴ and all 50 states and the District of Columbia, in turn, currently provide that presidential electors be elected by popular vote.

The Supreme Court and federal appellate courts have construed Congress' authority to regulate presidential elections as being broader than merely regulating the time of choosing presidential electors.³⁵ However, as discussed below, the precise parameters of Congress' authority to pass legislation relating to presidential elections have not been clearly established.

A key ruling in the area of congressional regulation of presidential elections is the Supreme Court's 1934 decision in *Burroughs v. United States*.³⁶ In *Burroughs*, the Court addressed the constitutionality of the Federal Corrupt Practices Act, which imposed various bookkeeping and reporting requirements on political committees accepting contributions or making expenditures to influence presidential elections. The Act also

contained criminal penalties. In upholding a prosecution under the Act, the Court recognized the power of Congress to regulate certain aspects of presidential elections, reasoning, in part, that the narrow view of limiting Congress' authority to only that of determining the time of choosing the electors, and the day on which they shall give their votes, "is without warrant."³⁹ In light of the federal functions that presidential electors serve and the importance of the presidency, the Court reasoned that:

"While presidential electors are not officers or agents of the federal government...they exercise federal functions under, and discharge duties in virtue of authority conferred by, the Constitution of the United States. The President is vested with the executive power of the nation. The importance of his election and the vital character of its relationship to and effect upon the welfare and safety of the whole people cannot be too strongly stated. To say that Congress is without power to pass appropriate legislation to safeguard such an election from the improper use of money to influence the result is to deny to the nation in a vital particular the power of self-protection. Congress, undoubtedly, possesses that power, as it possesses every other power essential to preserve the departments and institutions of the general government from impairment or destruction, whether threatened by force or by corruption."⁴⁰

The Court also recognized that the legislation did not interfere with the states' constitutional powers to determine the manner in which it appoints presidential electors.³⁹ In particular, the Court found that "[n]either in purpose nor in effect does it interfere with the power of a state to appoint electors or the manner in which their appointment shall be made," but instead regulated the operation of national political committees, which were, "if not beyond the power of the state to deal with at all, are beyond its power to deal with adequately."⁴⁰

Although the Burroughs case dealt with legislation that regulated third parties, as opposed to direct regulation of the states, federal courts have relied on the Supreme Court's decision for the proposition that Congress has the authority to regulate presidential elections. The three federal appellate court cases addressing challenges to the NVRA, discussed above, each rely on Burroughs for the proposition that Congress has such authority. For example, the court in Voting Rights Coalition v. Wilson stated that, under Burroughs, "[t]he broad power given to Congress over congressional elections has been extended to presidential elections," while the court in ACORN v. Edgar cited Burroughs for the proposition that Congress' authority over presidential elections is "coextensive" with Congress' Election Clause authority over congressional elections.⁴¹

The precise parameters of Congress' authority to pass legislation relating to presidential elections are not as clearly established as Congress' authority over its own elections. Congress' constitutional authority over presidential elections is textually more limited than its authority over its own elections. More specifically, whereas Congress' authority under the Elections Clause provides for the regulation of times, places, and manner of congressional elections, its authority over presidential elections, at Article II, Section 1, Clause 4, simply provides that Congress may determine the time of choosing presidential electors. Despite this distinction, Congress' authority to regulate presidential elections is clearly not confined only to matters related to timing. However, federal legislation relating solely to the administration of presidential elections has been fairly limited and, therefore, federal case law on the subject is also rather sparse.

**Congress' Authority to
Regulate State and Local
Elections**

Congress does not have general authority under the Constitution to legislate regarding the administration of state and local elections. However, Congress has the authority under a number of constitutional amendments to enforce prohibitions against specific discriminatory practices in all elections, including federal, state and local elections. These constitutional amendments prohibit voting discrimination on the basis of race, color, or previous condition of servitude (Fifteenth Amendment), sex (Nineteenth Amendment), any poll tax or other tax (Twenty-fourth Amendment), and age (Twenty-sixth Amendment). In addition, the Equal Protection Clause of the Fourteenth Amendment provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws." Each of these Amendments contains an enforcement clause, which grants Congress legislative authority to enforce the substantive rights promised by the Amendment.

The major piece of federal legislation that prohibits states from engaging in discriminatory voting practices is the Voting Rights Act of 1965, as amended.⁵² In a string of cases addressing the constitutionality of the Voting Rights Act, the Supreme Court has mapped out the Fourteenth and Fifteenth Amendment contours of federal authority to enact nondiscrimination legislation in the voting context. The Court has upheld numerous provisions of the Act against federalism challenges. See *South Carolina v. Katzenbach*, 383 U.S. 301 (1966) (upholding the requirement for federal preclearance⁵³ of state election law changes, the appointment of federal election examiners, and the suspension of literacy tests as a voting prerequisite in covered jurisdictions); *Katzenbach v. Morgan*, 384 U.S. 641 (1966) (upholding the abolition of English-language literacy tests as a

voting prerequisite); *Oregon v. Mitchell*, 400 U.S. 112 (1970) (upholding the suspension of literacy tests nationwide, the abolition of state durational residency requirements as a prerequisite to voting in presidential elections, the requirement for absentee balloting in presidential elections, and the enfranchisement of eighteen-year olds in federal elections); *City of Rome v. United States*, 446 U.S. 156 (1980) (upholding a preclearance requirement that proposed election law changes have neither a discriminatory purpose nor effect); and *Lopez v. Monterey County*, 525 U.S. 266 (1999) (upholding a requirement for federal preclearance of election law changes in covered localities, notwithstanding that a noncovered state mandated the change). However, the Supreme Court has invalidated one provision of the Voting Rights Act. In *Oregon v. Mitchell*, the Court found that Congress exceeded its authority by enfranchising eighteen-year olds in state and local (as opposed to federal) elections. A review of the above decisions indicates that Congress may subject states and localities to voting legislation, provided that the legislation deters discrimination of the type contemplated by the Fourteenth and Fifteenth Amendments.

A recent Supreme Court application of constitutional standards in the voting rights context is contained in *Bush v. Gore*.⁴⁴ The Court, in determining whether manual recount procedures adopted by the Florida Supreme Court were consistent with the obligation to avoid arbitrary and disparate treatment of the electorate, found a violation of the Equal Protection Clause of the Fourteenth Amendment. In the 5-4 ruling, the per curiam opinion stated, "The right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise. Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another."⁴⁵ However, the opinion explicitly limited the analysis to the set of facts presented, specifically "the special instance of a statewide recount under the authority of a single state judicial officer."⁴⁶ It remains to be seen how far the courts will go in the future with the application of equal protection in the voting context.

Other Congressional Authorities

Aside from the direct regulation of election administration, Congress may, in exercising its spending power,⁴⁷ encourage state action by attaching conditions to the receipt of federal funds.⁴⁸ In *South Dakota v. Dole*, for example, the Supreme Court held that Congress could withhold federal highway funds from states failing to adopt Congress' choice of a minimum drinking age.⁴⁹ The Court found that Congress could act indirectly under its spending power to encourage state action even if Congress lacked the

power to regulate directly.⁵⁰ The Court, however, in noting that the spending power is not unlimited, enumerated the following restrictions on the spending power: (1) the exercise of the spending power must be in pursuit of the general welfare; (2) such conditional grants must be done in an unambiguous manner whereby states can exercise their choice knowingly, cognizant of the consequences of their participation; (3) conditions on federal grants must be related to the federal interest in particular national projects or programs; and (4) other constitutional provisions may provide an independent bar to the conditional grant of funds.⁵¹ The Court also recognized that "in some circumstances the financial inducement offered by Congress might be so coercive as to pass the point at which 'pressure turns into compulsion.'"⁵² Nonetheless, the Court recognized that "the constitutional limitations on Congress when exercising its spending power are less exacting than those on its authority to regulate directly."⁵³

Major Federal Statutes

Congress has legislated regarding the administration of elections, both for federal elections and in certain cases at the state level. The authority for such legislation is grounded in the Constitution, as discussed earlier. However, attempting to categorize particular election laws according to their constitutional underpinnings can be challenging, given that more than one source of authority may potentially apply.⁵⁴ Therefore, the following discussion of major federal election administration statutes is presented by functional areas in the voting process: (1) timing of federal elections; (2) voter registration; (3) absentee voting requirements; (4) accessibility provisions for the elderly and handicapped; and (5) prohibitions against discriminatory voting practices.⁵⁵

Timing of Federal Elections

Congress has passed several pieces of legislation with respect to the timing of congressional and presidential elections. In 1872, under its Elections Clause authority, Congress first set a date for the popular election of Representatives.⁵⁶ After the method of selecting Senators was changed by the Seventeenth Amendment in 1913 from being chosen by the state legislatures to being chosen by popular vote, Congress in 1914 set the same date for the election of Senators.⁵⁷ Congress has also established a date for the selection of presidential electors⁵⁸ under its Article II, Section 1 authority to determine the time of choosing of presidential electors.⁵⁹ These statutory provisions, in concert, mandate "holding all elections for Congress and the Presidency on a single day throughout the Union."⁶⁰

The Supreme Court has held that federal laws regulating the time of elections for Representatives and Senators is a matter on which the Elections Clause gives Congress the final say. In its 1997 decision, *Foster v. Love*, the Supreme Court struck down a Louisiana state statutory scheme because it conflicted with federal laws regulating the time of federal elections.⁶¹ The Court noted that its judgment was "buttressed by an appreciation of Congress's object 'to remedy more than one evil arising from the election of members of Congress occurring at different times in the different States.'"⁶² The *Foster* Court indicated that Congress was concerned with both the "distortion of the voting process threatened when the results of an early federal election in one State can influence later voting in other States," and "the burden on citizens forced to turn out on two different election days to make final selections of federal officers in Presidential election years."⁶³

Voter Registration

As discussed earlier, one of the key pieces of federal legislation in the area of registration is the National Voter Registration Act of 1993 (NVRA).⁶⁴ Congress enacted NVRA to establish registration procedures designed to "increase the number of eligible citizens who register to vote in elections for Federal office," without compromising "the integrity of the electoral process" or the maintenance of "accurate and current voter registration rolls."⁶⁵

NVRA requires all states to adopt the federal voter registration procedures detailed in the Act, except for those states that have no registration requirements or that permit election-day registration with respect to federal elections.⁶⁶ The centerpiece of NVRA is the requirement that states must allow applicants for driver's licenses to register to vote on the same form.⁶⁷ In addition, NVRA requires states to provide voter registration forms and accept completed applications at various state agencies, including any office in the state providing public assistance, any office in the state that provides state-funded disability programs, and other agencies chosen by the state, such as state licensing bureaus, county clerks' offices, public schools and public libraries.⁶⁸ NVRA also requires the Federal Election Commission to develop a national mail-in voter registration form, which states must use and accept.⁶⁹ Under NVRA, states must designate a chief election official responsible for implementing the requirements of the Act.⁷⁰

NVRA also contains detailed requirements regarding when a state may purge a voter from the federal registration rolls. These requirements are designed to ensure that any state purge program is uniform,

nondiscriminatory, and consistent with the Voting Rights Act and does not exclude a voter from the rolls solely because of his or her failure to vote.⁷¹

Three federal appellate courts, as discussed earlier, have upheld the constitutionality of the NVRA's voter registration provisions for federal elections principally based on Congress' Elections Clause authority. These courts each cite the Supreme Court's decision in Burroughs v. United States for the proposition that Congress has the authority to regulate presidential elections.⁷²

Along with the registration requirements contained in NVRA, states are also required to follow certain other restrictions related to registration. For example, Section 202 of the Voting Rights Act permits otherwise qualified residents of a state to vote in presidential elections regardless of any state durational residency requirement, provided such residents apply for registration no later than 30 days prior to the election (or a lesser period if state law permits).⁷³ The Act also requires that if a citizen moves to another state after the 30th day preceeding a Presidential election, that person may vote in his or her former state.⁷⁴

Absentee Voting Requirements

Congress has provided statutory protections for the rights of certain individuals to register and vote absentee in federal elections. The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)⁷⁵ requires states to permit (1) uniformed services voters and all other voters living overseas, and (2) uniformed services voters and their dependents within the U.S., but living out of their voting jurisdictions, to vote by absentee ballot in federal elections. States must process all valid voter registration applications received 30 days or more before the election.⁷⁶

UOCAVA provides for a presidential designee, currently the Secretary of Defense, to carry out the Act and authorizes the Attorney General to bring civil actions to enforce its requirements.⁷⁷ The Secretary of Defense implements his UOCAVA responsibilities through the Federal Voting Assistance Program. Among other things, UOCAVA requires the designated official to compile and distribute information on state absentee registration and voting procedures. The official is required to write a report to the President and the Congress after each Presidential election evaluating the effectiveness of assistance to voters provided under UOCAVA, including a statistical analysis of voter participation and a description of state-federal cooperation.⁷⁸

UOCAVA requires the designated official to prescribe a federal write-in absentee ballot for all overseas voters in federal elections. The ballot is to be used if the overseas voter applies for, but does not receive, a state absentee ballot.⁷⁹ While state law, in general, governs the processing of these federal write-in ballots, UOCAVA requires that states permit their use in federal elections.⁸⁰ UOCAVA sets forth several federal requirements concerning federal write-in ballots. First, the ballots may not be counted if they are submitted from anywhere in the U.S., or if state election officials have not received an application for a state absentee ballot at least 30 days before the election, or if state election officials receive a timely state absentee ballot.⁸¹ Second, the overseas voter may write in a candidate's name or political party, and the vote must be counted regardless of minor variations in the name of the candidate or party if the intent of the voter can be ascertained.⁸²

UOCAVA has been challenged, unsuccessfully, on a variety of constitutional grounds. Most notably, the Act has been challenged in several cases under the Equal Protection Clause. In each of these cases, federal courts have looked to whether there is a rational basis for distinguishing between citizens who move from one state or U.S. territory to another and citizens who move overseas. See Romeu v. Cohen, 121 F.Supp.2d 264 (S.D.N.Y. 2000); Howard v. State Administrative Board of Election Laws, 976 F.Supp. 350 (D.Md. 1996); Igartua de la Rosa v. United States, 32 F.3d 8 (1st Cir. 1994). In these cases, the courts concluded that UOCAVA did not violate the Equal Protection Clause because the distinction between voters who moved outside the United States versus those who moved within the country was rational, given that voters who moved overseas could lose their right to vote in federal elections while voters who moved within the United States were still eligible to vote at their new place of residence.

In addition, there are other federal requirements with regard to absentee voting. Section 202 of the Voting Rights Act contains protections for citizens to vote absentee in elections for President and Vice President.⁸³ The provision requires, among other things, that each state provide by law for the casting of absentee ballots in elections for President and Vice President by qualified residents who may be absent from their election district on the day of the election, if application is made not later than seven days immediately prior to the election and the ballot is returned not later than the time of poll closing in the state on election day.⁸⁴

**Accessibility Provisions
for the Elderly and
Handicapped**

Congress has passed legislation intended to improve access for elderly and handicapped individuals to registration facilities and polling places for federal elections. The Voting Accessibility for the Elderly and Handicapped Act of 1984 requires, with some exceptions, that political subdivisions within each state that are responsible for conducting elections assure that polling places and registration sites are accessible to handicapped and elderly voters.⁸⁵ If the political subdivision is unable to provide an accessible polling place, it must provide an alternate means for casting a ballot on election day upon advance request by the voter.⁸⁶ The Act's requirements also include, for example, that each state or political subdivision provide a reasonable number of accessible permanent registration facilities, and that each state make available certain types of voting and registration aids such as large-type instructions and information by telecommunication devices for the deaf.⁸⁷ The Act has not been the subject of court challenges related to federalism issues.

**Prohibitions Against
Discriminatory Voting
Practices**

Congress has authority under various constitutional amendments to enforce prohibitions against specific discriminatory practices. The Voting Rights Act of 1965⁸⁸ codifies and effectuates the Fifteenth Amendment⁸⁹ guarantee that no person shall be denied the right to vote on account of race or color. In addition, subsequent amendments to the Act expanded it to include protections for members of language minority groups, as well as other matters regarding voting registration and procedures. Some parts of the Act apply to all elections nationwide, certain provisions apply nationwide in the context of presidential general elections, and other provisions apply only to elections in covered jurisdictions.

Section 2 of the Voting Rights Act establishes a nationwide ban against any state or local election law that results in the denial or abridgement of any citizen's right to vote on account of race, color, or membership in a language minority group.⁹⁰ The Voting Rights Act provides that plaintiffs may establish a violation of Section 2 by demonstrating that "the political processes leading to nomination or election" deny members of the protected classes an equal opportunity to participate in the political process and to elect representatives of their choice. A court, under the Voting Rights Act, may also consider the extent to which members of the protected class have been elected to office in the jurisdiction, though Congress made clear that Section 2 does not confer upon protected classes a right to proportional representation.⁹¹

Section 201 of the Voting Rights Act prohibits all states and localities from using any "test or device" to establish voter eligibility.⁹² The Act generally

defines a "test or device" to mean proof of literacy, other educational achievement, or good moral character.⁵⁵

Unlike the above sections, which are permanent provisions that apply to all jurisdictions, Section 5 of the Voting Rights Act only applies to "covered" jurisdictions for a specified duration. The jurisdictions targeted for coverage are those evidencing discriminatory voting practices, based upon a triggering formula, as defined in Section 4. According to this formula, a jurisdiction is covered if it maintained "any test or device" as a prerequisite to voting as of November 1, 1964, 1968, or 1972, and if less than half of its electorate either registered or voted in that year's presidential election.⁵⁶ The Act presumes that a jurisdiction used a literacy test on November 1, 1972 if more than 5 percent of its electorate comprised a single language minority and the jurisdiction did not provide bilingual election materials and assistance.⁵⁶ The Attorney General and the Director of the Census have responsibility for determining which jurisdictions are covered by the triggering formula, and their determinations are not reviewable in any court and are effective upon publication in the Federal Register.⁵⁶

Under Section 5 of the Act, "covered" jurisdictions may not change their election practices or procedures until they obtain federal "preclearance" for the change. The Act provides for either judicial or administrative preclearance. Under the judicial mechanism, covered jurisdictions may seek declaratory judgment from the United States District Court for the District of Columbia that the change has neither the purpose nor the effect of discriminating against protected minorities in exercising their voting rights. Under the administrative mechanism, covered jurisdictions may seek the same determination from the Attorney General. The Attorney General may deny preclearance by interposing an objection to the proposed change within 60 days of its submission.⁵⁷

The Voting Rights Act provides for the appointment of federal examiners to enforce voting rights and federal observers to oversee the conduct of elections. Federal examiners help to register voters by determining whether a citizen meets state eligibility requirements and must be included in the registration rolls.⁵⁸ States and localities may only challenge an examiner's eligibility determination through a federal review procedure.⁵⁹ Federal election observers monitor elections and report whether persons entitled to vote were allowed to vote and whether their votes were properly counted.¹⁰⁰

A federal court, under the Voting Rights Act, may order the appointment of federal examiners to any jurisdiction sued for a voting rights violation under the Fourteenth or Fifteenth Amendment.¹⁰¹ "Covered" jurisdictions are also subject to the appointment of examiners where the Attorney General certifies that he has received at least twenty meritorious written complaints of voting discrimination or that he otherwise believes that the appointment of examiners is necessary to protect voting rights.¹⁰² Observers may be appointed in any jurisdiction where an examiner is serving, upon request of the Attorney General.¹⁰³

Covered jurisdictions may seek release ("bail-out") from coverage by filing a declaratory judgment action in the United States District Court for the District of Columbia.¹⁰⁴ To prevail in such an action, the jurisdiction must establish that it has met specific conditions during the previous ten years.¹⁰⁵ Regardless of whether a jurisdiction is released from coverage, the Voting Rights Act does not impose coverage indefinitely on targeted jurisdictions. Rather, the special restrictions applicable to covered jurisdictions (i.e., the requirement for federal preclearance of election-law changes and the imposition of federal election examiners and observers at the authorization of the Attorney General) expire in 2007, unless Congress amends the Act to extend coverage.¹⁰⁶

The Voting Rights Act contains another requirement that, absent amendment, will expire in 2007: a requirement for bilingual elections in selected jurisdictions.¹⁰⁷ Under Section 203 of the Act, certain states or localities must provide bilingual election materials and assistance, depending upon the concentration and literacy level of the language minorities residing within the jurisdiction.¹⁰⁸ A state or locality may obtain release from coverage in federal court by showing that the illiteracy rate of the applicable language minority group is equal to or less than the national illiteracy rate.¹⁰⁹

Regardless of whether the Act's bilingual-election requirements apply, all jurisdictions must comply with another provision of the Voting Rights Act, which protects the rights of certain foreign-language voters. Under Section 4(e) of the Act, states may not deny, based on an English-language literacy requirement, voting rights to any person who has successfully completed the sixth grade in a foreign-language, American-flag school.¹¹⁰

As discussed earlier, the Supreme Court has upheld numerous provisions of the Voting Rights Act against federalism challenges. The Court first addressed the constitutionality of the Voting Rights Act in South Carolina v. Katzenbach, in which South Carolina challenged various

provisions of the Act, including the suspension of literacy tests in states, such as South Carolina, with a legacy of voting discrimination.¹¹¹ South Carolina argued that it had the right to enforce its election laws absent a determination that these laws violated the Fifteenth Amendment, and that the power to make such a determination rested with the federal courts, not with Congress, as it had effectively done through the Voting Rights Act. The Court disagreed, finding that the enforcement clause of the Fifteenth Amendment gave Congress the power to enact appropriate legislation to guarantee voting rights. The Court held that the basic test to be applied when Congress exercised its enforcement power under the Fifteenth Amendment was whether the legislation was plainly adapted to carry out the objects of the Amendment. Applying this test, the Court found evidence that South Carolina and other states had used literacy tests to disenfranchise racial minorities and that Congress had appropriately exercised its enforcement power to suspend such tests in these states, without the need for case-by-case adjudication.¹¹²

In *Katzenbach v. Morgan*, the Supreme Court upheld Congress' authority under the Fourteenth Amendment enforcement clause to prohibit states from imposing an English-language literacy requirement to disenfranchise citizens educated in foreign-language, American-flag schools (in *Morgan*, Puerto Rican schools).¹¹³ As in *South Carolina v. Katzenbach*, the Supreme Court rejected New York's argument that Congress could not exercise its enforcement power until the judicial branch determined whether the specific state law was unconstitutional. The Court held that the constitutionality of the English-language literacy ban turned on whether it was legislation plainly adapted to carry out the objects of the Equal Protection Clause. The Court further observed that the enforcement clause represented a "positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment."¹¹⁴ The Court then held that the English-language literacy ban was an appropriate enactment under the Fourteenth Amendment because it served to enhance minority political power and thus minority access to nondiscriminatory public services.¹¹⁵ In addition, the Court held that the ban was an appropriate method of ending an invidious discrimination in establishing voter qualifications.¹¹⁶

In *Oregon v. Mitchell*, the Supreme Court addressed challenges to various provisions of the Voting Rights Act Amendments of 1970.¹¹⁷ Among other things, the 1970 Amendments reduced the minimum voting age in any state or local election from twenty-one years to eighteen years of age. Congress claimed authority to enact this requirement under the Fourteenth

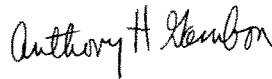
Amendment, asserting that state laws setting the franchise at twenty-one years of age denied due process and equal protection rights to eighteen-year olds. While there was no single or majority opinion of the Court in Mitchell, five of the Justices (in a 5-4 split) struck down the minimum voting age provision as applied to state and local elections.¹¹⁸ These Justices found that the Constitution reserved to the states the power to determine voter qualifications in state and local elections, subject only to the express limitations imposed by constitutional amendments. These Justices further found that the Equal Protection Clause does not protect people between eighteen and twenty-one years from voting discrimination and that Congress lacked authority to create a substantive constitutional right on behalf of such a class.¹¹⁹

In City of Rome v. United States, the Supreme Court turned its attention to the standard of proof for obtaining federal preclearance of a proposed election law change.¹²⁰ The Voting Rights Act requires covered jurisdictions to establish that a proposed election law change has neither a discriminatory purpose nor effect prior to implementation. The Court stated that, even if the Fifteenth Amendment prohibited only purposeful discrimination, Congress could still prohibit election law changes that were unintentionally discriminatory. The Court stated that Congress, in enforcing the Fifteenth Amendment, may prohibit practices that do not themselves violate the Amendment, so long as the prohibition is an "appropriate" method of promoting the Amendment's purposes.¹²¹ The Court further held that the Fourteenth and Fifteenth Amendments were "specifically designed as an expansion of federal power and an intrusion on state sovereignty," such that Congress' power to enforce those Amendments overcame principles of federalism that might otherwise apply.¹²²

Finally, in Lopez v. Monterey County, the Supreme Court again considered a matter related to the constitutionality of the federal preclearance requirement.¹²³ Lopez involved an election law change proposed by a noncovered state (California) to be effective in a covered locality (Monterey County), and the Court determined as a threshold matter that Congress intended the covered locality to seek preclearance, even though a noncovered state proposed the change.¹²⁴ Upon reaching this conclusion, the Court then considered whether such an interpretation violated principles of federalism, given that the state was noncovered and was therefore not guilty of voting rights discrimination. The Court nevertheless concluded that such an intrusion on state power was constitutionally permissible. Citing South Carolina v. Katzenbach and City of Rome, the Court noted that it had previously upheld Congress's authority to impose a

federal preclearance requirement upon covered jurisdictions and to protect against election law changes that have a discriminatory effect in those jurisdictions. As a result, the Court found no merit to the argument that Congress lacked Fifteenth Amendment authority to require federal preclearance of a state law that may have a discriminatory effect in a covered county.¹⁰³

Please contact me on (202) 512-5400, or Lynn Gibson, Associate General Counsel, on (202) 512-5156, if you have any questions concerning this analysis. Jan Montgomery, Assistant General Counsel, and Geoffrey Hamilton, Christine Davis, and Judy Clausen, Senior Attorneys, also made key contributions to this analysis.



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ENDNOTES

¹ Storer v. Brown, 415 U.S. 724, 730 (1974). State regulation of the elections process must involve “generally applicable and evenhanded restrictions that protect the integrity and reliability of the electoral process itself.” Anderson v. Celebrezze, 460 U.S. 780, 788 n.9 (1983). The states are empowered by Article I, Section 2, and the Seventeenth Amendment, to establish voter qualifications determining who may vote in congressional elections. See generally Katzenbach v. Morgan, 384 U.S. 641, 647 (1966). The states generally require U.S. citizenship as a condition of voting.

² U.S. Const. art. I, sec. 4, cl. 1. The policy of entrusting the conduct of elections to state laws, administered by state officers, according to some of the Framers of the Constitution, was deemed necessary because the fixing of the time, place, and manner of such elections in the Constitution was found to be impossible. See United States v. Gradwell, 243 U.S. 476, 484 (1917), citing to the Records of the Federal Convention, Farrand, vol. 3, p. 311. A reply of Madison to Monroe in the debates in the Virginia Convention further elaborates that, “It was found necessary to leave the regulation of these, in the first place, to the state governments, as being best acquainted with the situation of the people, subject to the control of the general government, in order to enable it to produce uniformity, and prevent its own dissolution.” Id.

³ U.S. Const. art. I, sec. 4, cl. 1. With respect to Senators, the Constitution originally provided that Senators were to be chosen by state legislatures. U.S. Const. art. I, sec. 3. The ratification of the Seventeenth Amendment in 1913 changed the method of choosing Senators to that of being chosen by popular vote. The Seventeenth Amendment did not, however, repeal the language excepting the “Places of chusing Senators” from congressional regulatory authority.

⁴ Ex Parte Siebold, 100 U.S. 371, 384, 388 (1879).

⁵ Id. at 382-84.

⁶ Id. at 384.

⁷ Ex Parte Yarbrough, 110 U.S. 651 (1884).

⁸ *Id.* at 662. The *Yarborough* Court noted that it was not until 1842 that Congress took any action under the Elections Clause to regulate elections for the House of Representatives by requiring the election of Representatives by districts. *Id.* at 660-661. This law ended a practice in some states "of electing on a single state ticket all of the Members of Congress to which the State was entitled." *United States v. Gradwell*, 243 U.S. at 482.

⁹ *Ex Parte Yarborough*, 110 U.S. at 662.

¹⁰ *Smiley v. Holm*, 285 U.S. 355 (1932).

¹¹ *Id.* at 366-67.

¹² *Id.* at 366.

¹³ *United States v. Classic*, 313 U.S. 299 (1941).

¹⁴ *Id.* at 320. The Court has noted, on occasion, that Congress' Election Clause authority to regulate congressional elections is augmented by the Necessary and Proper Clause. The Court did so in *Classic*, stating that in addition to Congress' authority under the Elections Clause, under the Necessary and Proper Clause, "Congress is given authority 'to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States.'" *Id.* (quoting U.S. Const. art. I, sec. 8, cl. 18).

¹⁵ *Foster v. Love*, 522 U.S. 67 (1997).

¹⁶ *Id.* at 72.

¹⁷ *Id.* at 69 (quoting *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 832-833 (1995)).

¹⁸ National Voter Registration Act of 1993, 42 U.S.C. 1973gg to 1973gg-10.

¹⁹ In addition, as discussed below, the courts noted that Congress' authority to regulate elections also extends to presidential elections.

²⁰ *Voting Rights Coalition v. Wilson*, 60 F.3d at 1413.

²¹ *Id.* at 1414.

²² The Tenth Amendment provides that, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

²³ *New York v. United States*, 505 U.S. 144 (1992) (holding that a provision of the Low-Level Radioactive Waste Policy Amendments Act of 1985 violated the Tenth Amendment in that it commandeered the legislative processes of the States by directly compelling them to enact and enforce a federal regulatory program).

²⁴ *ACORN v. Miller*, 129 F.3d at 836-37; *Voting Rights Coalition v. Wilson*, 60 F.3d at 1415; *ACORN v. Edgar*, 56 F.3d at 794.

²⁵ *ACORN v. Edgar*, 56 F.3d. at 795.

²⁶ *ACORN v. Miller*, 129 F.3d at 837. In addition, the states argued that the NVRA violated state sovereignty under the Tenth Amendment, asserting that the NVRA's federal voter registration procedures would necessarily affect state procedures which are within the states' exclusive domain. The court in *Miller* rejected this argument, stating that the NVRA does not require any change to state or local election procedures, nor does it prohibit states from adopting separate procedures for the election of state officials. *ACORN v. Miller*, 129 F.3d at 837. The courts in *Edgar* and *Wilson* did not dismiss the states' arguments outright, but instead found that the states had not shown that NVRA's impact on state or local election procedures was so burdensome as to impinge on the legitimate retained sovereignty of the states. *Voting Rights Coalition v. Wilson*, 60 F.3d at 1415-16; *ACORN v. Edgar*, 56 F.3d at 794-95.

²⁷ *ACORN v. Edgar*, 56 F.3d at 796.

²⁸ *Id.*

²⁹ The court in *Wilson*, in discussing implementation of the NVRA, noted that the costs to the states could be significant. *Voting Rights Coalition v. Wilson*, 60 F.3d at 1415-16. The court stated that the significance of the cost burden does not "change the principle which is embodied" in the Elections Clause, but that it does "dictate that the implementation of the Act be done sensitively." *Id.* at 1415.

³⁰ As noted earlier, while the Seventeenth Amendment changed the method of choosing Senators from being chosen by State legislatures to being chosen by popular vote, it did not, however, repeal the language excepting the "Places of choosing Senators" from congressional authority.

⁵¹ See, e.g., *Foster v. Love*, 522 U.S. at 69.

⁵² See generally *ACORN v. Edgar*, 56 F.3d at 793.

⁵³ U.S. Const. art. II, sec. 1.

⁵⁴ *Id.*

⁵⁵ For example, Section 202 of the Voting Rights Act contains certain minimum residency requirements for both registration and absentee voting in the context of presidential elections. 42 U.S.C. 1973aa-1. These provisions were upheld by the Supreme Court in *Oregon v. Mitchell*, 400 U.S. 112 (1970). Although it was an 8-1 ruling, the Justices applied various rationales. Justice Black cited to Congress' authority under the Court's decision in *Burroughs v. United States*, 290 U.S. 534 (1934) and the Necessary and Proper Clause; Justices Brennan, White and Marshall relied on the Enforcement Clause of the Fourteenth Amendment as a legitimate basis to protect citizens' rights to unhindered interstate travel and settlement; Justice Douglas relied on the Enforcement Clause of the Fourteenth Amendment as a legitimate basis to protect the right to vote for national offices as a privilege and immunity of national citizenship; and Chief Justice Burger and Justices Stewart and Blackmun relied on the Necessary and Proper Clause.

⁵⁶ *Burroughs v. United States*, 290 U.S. 534 (1934).

⁵⁷ *Id.* at 544.

⁵⁸ *Id.* at 545.

⁵⁹ *Id.* at 544. Article II, Section 1, Clause 2 of the Constitution provides that, "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector."

⁶⁰ *Burroughs v. United States*, 290 U.S. at 544-45.

⁶¹ *Voting Rights Coalition v. Wilson*, 60 F.3d at 1414; *ACORN v. Edgar*, 56 F.3d at 793. The court in *ACORN v. Miller*, also citing *Burroughs*, wrote that "[w]hile Article I section 4 mentions only the election of Senators and Representatives, Congress has been granted authority to regulate presidential elections." 129 F.3d at 836 n.1.

⁴² The Voting Rights Act of 1965, as amended, 42 U.S.C. 1971, 1973 to 1973bb-1.

⁴³ Preclearance is a federal review process, discussed in more detail in the section on federal statutes.

⁴⁴ Bush v. Gore, 531 U.S. ___, No. 00-949, slip op. (U.S. Dec. 12, 2000).

⁴⁵ Id. at 6 (per curiam).

⁴⁶ Id. at 10 (per curiam).

⁴⁷ Article I, Section 8, Clause 1 of the Constitution provides, in part, that, "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States...."

⁴⁸ New York v. United States, 505 U.S. at 167; South Dakota v. Dole, 483 U.S. 203, 206 (1987).

⁴⁹ South Dakota v. Dole, 483 U.S. at 210-12.

⁵⁰ Id. at 206, 212. The state, citing to the Twenty-first Amendment's prohibition of direct regulation of drinking ages by Congress, argued that Congress could not use the spending power to regulate that which it is prohibited from regulating directly.

⁵¹ Id. at 207-208. The Court stated that the "independent constitutional bar" limitation on the spending power "is not a prohibition of the indirect achievement of objectives which Congress is not empowered to achieve directly," but instead "stands for the unexceptionable proposition that the power may not be used to induce the States to engage in activities that would themselves be unconstitutional." Id. at 210. In addition, some commentators have noted that the doctrine of unconstitutional conditions, which, with respect to individuals, operates to prohibit the government from offering certain benefits conditioned upon the recipient foregoing a constitutionally protected right, could possibly be applied in the future to place additional limitations on the exercise of the spending power in influencing states' policy choices. See Angel D. Mitchell, *Conditional Funding to the States: The New Federalism Demands a Close Examination for Unconstitutional Conditions*, 48 Kan. L. Rev. 161 (1999); see also, Lynn Baker, *Conditional Federal Spending After Lopez*, 95 Colum. L. Rev. 1911

(1995); Kathleen M. Sullivan, *Unconstitutional Conditions*, 102 Harv. L. Rev. 1415 (1989).

⁵² *South Dakota v. Dole*, 483 U.S. at 211 (quoting *Steward Machine Co. v. Davis*, 301 U.S. 548, 590 (1937)).

⁵³ *Id.* at 209.

⁵⁴ For example, in *Oregon v. Mitchell*, 400 U.S. 112 (1970), the Supreme Court upheld an amendment to the Voting Rights Act that eliminated state residency requirements for presidential elections. However, as discussed in endnote 35, the justices cited various rationales for why the law was constitutional.

⁵⁵ This description of federal statutes regarding election administration does not include analysis of applicable criminal provisions or campaign finance laws. For a description of the criminal statutes related to elections, including campaign financing fraud violations, see "Federal Prosecution of Election Offenses," U.S. Department of Justice, Criminal Division, Public Integrity Section (6th ed. Jan. 1995). There are numerous criminal provisions which apply to election-related conduct. For example, the National Voter Registration Act (NVRA) contains criminal prohibitions on fraudulent registration and voting. 42 U.S.C. 1973gg-10(2).

⁵⁶ 2 U.S.C. 7.

⁵⁷ 2 U.S.C. 1.

⁵⁸ 3 U.S.C. 1.

⁵⁹ Article II, Section 1 of the Constitution provides that, "Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States."

⁶⁰ *Foster v. Love*, 522 U.S. at 70.

⁶¹ *Id.* at 69. The Court found that the state statute, in essence, allowed for the final selection of United States Representatives and United States Senators prior to federal election day whereby "[a]fter a declaration that a candidate received a majority in the open primary, state law requires no further act by anyone to seal the election; the election has already occurred." *Id.* at 73.

⁶² *Id.* at 73 (citing *Ex Parte Yarborough*, 110 U.S. at 661).

⁶³ *Id.*

⁶⁴ National Voter Registration Act of 1993, 42 U.S.C. 1973gg to 1973gg-10.

⁶⁵ *Id.* 1973gg(b). In the House Report accompanying the final bill, the House Administration Committee wrote that the Voting Rights Act of 1965 “eliminated the more obvious impediments to registration, but left a complicated maze of local laws and procedures” that continued to deter eligible citizens from registering, particularly racial minorities and the disabled. H.R. Rep. No. 103-9, at 3 (1993), *reprinted in* 1993 U.S.C.C.A.N. 105, 106-107. The Committee wrote that NVRA was to continue the election reforms begun by the Voting Rights Act by giving eligible citizens who wished to register ready access to registration applications. *Id.* at 3, 5, *reprinted in* 1993 U.S.C.C.A.N. 105, 107, 109. In addition, the Senate Report addressed the constitutional authority to regulate federal voter registration, citing the Elections Clause, the Necessary and Proper Clause, and the Fourteenth Amendment as the basis for Congress’ power to enact federal election laws. S. Rep. No. 103-6 (1993), at 3-4.

⁶⁶ 42 U.S.C. 1973gg-2.

⁶⁷ *Id.* 1973gg-3(a).

⁶⁸ *Id.* 1973gg-5(a)(2), (a)(3), (a)(4), (a)(6)(A)(i).

⁶⁹ *Id.* 1973gg-4(a)(1); 1973gg-7(a)(2).

⁷⁰ *Id.* 1973gg-8.

⁷¹ *Id.* 1973gg-6(b).

⁷² See *Burroughs v. United States*, 290 U.S. 534 (1934).

⁷³ 42 U.S.C. 1973aa-1(d). These limitations on state residency requirements in presidential elections were upheld by the Supreme Court in *Oregon v. Mitchell*, 400 U.S. 112 (1970).

⁷⁴ 42 U.S.C. 1973aa-1(e).

⁷⁵ The Uniformed and Overseas Citizens Absentee Voting Act of 1986, 42 U.S.C. 1973ff to 1973ff-6. Several federal laws have been enacted since the 1940's designed to protect the federal voting rights of the military. In addition, the courts have, on occasion, reviewed state restrictions on voting by members of the armed services. For example, in 1965, the Supreme Court struck down as unconstitutional a provision of the Texas Constitution that prohibited any member of the Armed Forces who moved his home to Texas during the course of military duty from ever voting in any election in Texas as long as he was a member of the Armed Forces. *Carrington v. Rash*, 380 U.S. 89 (1965). The Court found that the provision violated the Equal Protection Clause of the Fourteenth Amendment.

⁷⁶ *Id.* 1973ff-1.

⁷⁷ *Id.* 1973ff(a); 1973ff-4.

⁷⁸ *Id.* 1973ff(b)(5), (6). The report is due not later than the end of each year after a Presidential election year.

⁷⁹ *Id.* 1973ff-2(a).

⁸⁰ *Id.* 1973ff-1(3).

⁸¹ *Id.* 1973ff-2(b).

⁸² *Id.* 1973ff-2(c).

⁸³ 42 U.S.C. 1973aa-1.

⁸⁴ *Id.* 1973aa-1(d).

⁸⁵ The Voting Accessibility for the Elderly and Handicapped Act of 1984 (VAEHA), 42 U.S.C. 1973ee to 1973ee-6. VAEHA defines a "federal election" subject to the Act as including a general, special, primary, or runoff election for the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress. *Id.* 1973ee-6(3).

⁸⁶ *Id.* 1973ee-1(b)(2)(B)(ii).

⁸⁷ *Id.* 1973ee-2, 1973ee-3.

⁸⁸ The Voting Rights Act of 1965, 42 U.S.C. 1973 to 1973bb-1.

⁸⁹ The Fifteenth Amendment provides, in part, "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

⁹⁰ 42 U.S.C. 1973, 1973b(f)(2).

⁹¹ Id. 1973.

⁹² Id. 1973aa.

⁹³ Id. 1973b(c).

⁹⁴ Id. 1973b(b).

⁹⁵ Id. 1973b(f)(3).

⁹⁶ Id. 1973b(b).

⁹⁷ Id. 1973c.

⁹⁸ Id. 1973e.

⁹⁹ Id. 1973g(a).

¹⁰⁰ Id. 1973f.

¹⁰¹ Id. 1973a(a).

¹⁰² Id. 1973d.

¹⁰³ Id. 1973f.

¹⁰⁴ Id. 1973b(a)(1).

¹⁰⁶ The jurisdiction, in general, must establish that during the previous ten years it has: (1) not used a discriminatory test or device to establish voter qualifications; (2) not been judged in a court case to have denied or abridged voting rights, nor agreed through a consent decree to discontinue any discriminatory voting practices; (3) obtained federal preclearance for all election law changes; (4) not received any federal objections to an election law change submitted for preclearance; (5) not been assigned a federal examiner; (6) promoted political participation by racial or language minorities; and (7) presented evidence of minority registration, voting, and other political participation. *Id.* 1973b(a).

¹⁰⁶ *Id.* 1973b(8).

¹⁰⁷ *Id.* 1973aa-1a(b)(1).

¹⁰⁸ *Id.* 1973aa-1a(b)(2).

¹⁰⁹ *Id.* 1973aa-1a(d).

¹¹⁰ *Id.* 1973b(e).

¹¹¹ *South Carolina v. Katzenbach*, 383 U.S. 301 (1966). Congress later amended the Voting Rights Act to ban literacy tests nationwide. The Supreme Court upheld this nationwide suspension in *Oregon v. Mitchell*, 400 U.S. 112 (1970).

¹¹² *South Carolina v. Katzenbach*, 383 U.S. at 324-327. The Court also upheld Congress' authority to require federal preclearance of any election law changes and its authority to appoint federal election examiners to covered jurisdictions. As with the suspension of literacy tests, the Court found that Congress could adopt remedies that anticipated possible voting discrimination in these jurisdictions, without the need for case-by-case adjudication. *Id.* at 334-337.

¹¹³ *Katzenbach v. Morgan*, 384 U.S. 641 (1966).

¹¹⁴ *Id.* at 650-51.

¹¹⁵ *Id.* at 652.

¹¹⁶ *Id.* at 654-656.

¹¹⁷ *Oregon v. Mitchell*, 400 U.S. 112 (1970).

¹¹⁸ In contrast, a differently composed majority of Justices (in a 5-4 split) upheld the Act's minimum voting age provision as applied to federal elections. However, there was no majority regarding the constitutional justification for this result.

¹¹⁹ Oregon v. Mitchell, 400 U.S. at 125-126, 130 (Black, J., announcing the judgment of the Court), 212-213 (Harlan, J., concurring in part, dissenting in part), and 294-296 (Stewart, J., Burger, C.J., Blackmun, J., concurring in part and dissenting in part). Following Mitchell, Congress proposed, and the states ratified, the Twenty-sixth Amendment to the Constitution, which guarantees that neither the United States nor any state may deny or abridge the right to vote of any citizen older than eighteen years on account of age.

¹²⁰ City of Rome v. United States, 446 U.S. 156 (1980).

¹²¹ Id. at 177.

¹²² Id. at 179.

¹²³ Lopez v. Monterey County, 525 U.S. 266 (1999).

¹²⁴ Id. at 282.

¹²⁵ Id. at 282-284.

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ELECTIONS THE BRAZILIAN WAY

Two weeks ago, Brazil completed an election in which 5,559 mayors and 48,015 municipal council members were elected. Over 110 million voters participated. They voted at 322,000 polling stations nationwide, from Indian reservations in the most remote areas of the Amazon to cities large and small in the populous South of Brazil.

Brazil is a federal republic, like the U.S., but has a different electoral system, organized nationally. A Superior Electoral Court oversees the elections and the rules are uniform for all 26 states.

The voting system is state of the art. Four years ago, 33% of the voters in cities with a population of more than 200,000 used computers to express their political will. Two years ago that number grew to 58% and this year it reached 100%.

The voting software was created in a collaborative effort involving Brazil's civilian space agency and a public sector high tech institute. It is easy to operate and leaves no room for mistakes. The voter presses a numbered button that corresponds to his chosen candidate. On the screen, he sees a picture of a candidate and a name. If the image and name coincide with his intent, he confirms his vote. If they are wrong, he can cancel and start again.

Once the polls close, votes are counted electronically and the results for each precinct are encrypted and recorded on a diskette by the voting machine. This information is then sent by electronic means to the regional electoral court in the capital city of each state. These results are certified and immediately retransmitted to the Superior Electoral Court in Brasilia and made public. Hackers do not pose a risk because the equipment stands alone and is not online.

In this last election, the results of 95% of all municipal voting districts were known by midnight on election day. By noon the next day, the Superior Electoral Court had certified all the results, including those from a location so remote in the Amazon that the count had to be relayed electronically to a boat stationed in the Amazon River and from there to the state electoral court.

There was not even a single allegation of fraud. A few mechanical problems were expeditiously resolved by replacing the equipment.

As the most recent U.S. election shows, no country has a perfect democratic system. But in Brazil, since civilian rule was reinstated in 1985, democracy has been increasingly strengthened through a commitment to spare no effort or financial expense to improve the electoral system, making it more transparent and efficient. So far, under the coordination of the Superior Electoral Court, over US\$ 500 million in public funds have been spent on the new system.

On November 7th, while the US voted, the Superior Electoral Court loaned four of its electronic terminals to the U.S. Embassy in Brasilia, where a simulated presidential election took place. The results were announced immediately. No recount was necessary.

Democracy is a complex process. It needs continuous attention to be improved. Brazil offers an example of a success story where efficient technology serves the public interest.

Luiz Antonio Barbosa, Brazilian Ambassador to the United States of America

SHEILA JACKSON LEE
18TH DISTRICT, TEXAS

COMMITTEES:
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME

COMMITTEE ON SCIENCE
SUBCOMMITTEE ON SPACE AND AERONAUTICS

— Submitted by Senator Dodd for —
Hearing Record

Congress of the United States
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Washington, DC 20515

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STATEMENT

CONGRESSWOMAN SHEILA JACKSON LEE

SENATE COMMITTEE ON RULES AND ADMINISTRATION

HEARING ON ELECTION REFORM

MARCH 15, 2001

Chairman McConnell and Ranking Member Dodd, I would like to commend you for holding these hearings on the voting irregularities and voter rights violations in what was the closest and most contested presidential election in the history of our great nation.

I believe it is imperative that we as representatives of the American people engage in a serious review and reform

of the election process in this nation as a recognition of the disenfranchisement of voters, not only in Florida but around the country.

I am here today to advocate for the need for election reform; and to lift my voice on behalf of the thousands of disenfranchised voters in Florida and states throughout the nation who were silenced.

In view of the voting rights violations that occurred in the recent presidential election I have recently founded the Congressional Election Reform Caucus which was established to enable all members of Congress to engage in a serious review and dialogue of the election process in this nation as a recognition of the disenfranchisement of voters who over any number of elections in many states lost their

fundamental rights as citizens of the United States, to vote because of voter confusion, poor voter machinery and work commitments. Committee's and advocacy groups should bring about important changes in our electoral system.

On March 7, 2001, I introduced H.R. 934, legislation to establish a National Election Day. H.R. 934 would set up a National Election Day Holiday by designating the 2nd Tuesday of November, in presidential election years as a legal public holiday.

H.R. 934 would substantially resolve one of the serious issues raised by last year's presidential election, the lack of time for people to vote or participate in the very important federal election process, due to employment

commitments that keep many Americans from voting or acting as election day officials.

I firmly believe that the United States Constitution is not just there to protect me or people who agree with me, but it is there to also ensure that those who do not share my view also have equal access to the tools of democracy. It is my opinion that the larger threat to our national identity as a democracy and the sense of well being that Americans once had about the election process is the acceptance of a belief that citizens of this country do not have a voice in its governance. This is the greatest Achilles Heel that this nation has ever faced. Throughout history many nations and governments have ceased to exist because they failed to fulfill the true mission of government, which is to be responsive to the needs of citizens.

On November 7th, 2000, only some of the citizens of the United States were able to exercise their right to vote and have it counted. It is inescapable that critical mistakes were made and there were serious allegations of violations of Voter Rights Act of 1965 that have been made during and after the November 7, elections and throughout the nation.

Victims and witnesses to Election Day irregularities and discriminatory practices at voting precincts came forward in significant numbers to tell their stories of how their votes were discarded and their voices silenced which resulted in their disenfranchisement. In fact, many disenfranchised voters did ask, 'could I get another ballot,' but were told they could not.

On November 11, the NAACP conducted a hearing in Florida regarding the election. After reviewing allegations made at the NAACP hearing and hearing numerous other allegations from constituents and citizens throughout the country, along with senior citizens and disabled people, I and members of the CBC met and also held press conferences to announce that there was substantial evidence indicating that many African-Americans and other minorities, along with senior citizens and the disabled were denied their fundamental rights as citizens of the United States.

Mr. Chairman, we must do all that we can today, to stop these political partisan games from being played in the future to usurp the right given to all American citizens, the

right to vote. We should look to being a government of the people that is governed by the people. We must listen to the voices of the people spoken through their votes, which is guaranteed by the United States Constitution.

As the elected representative for all the people, we need to find a remedy to ensure that every citizen's vote counts. The information presented in the Florida State Legislature hearings and NAACP hearings in Florida included first-hand accounts from victims and eyewitnesses of the following:

1. That citizens who were properly registered were denied the right to vote because election officials could not find their names on the precinct rolls and that some of these

voters went to their polling place with registration identification cards but still were denied the right to vote;

2. that registered voters were denied the right to vote because of minor discrepancies between the name appearing on the registration lists and the name on their identification;
3. the first-time voters who sent in voter registration forms prior to the state's deadline for registration were denied the right to vote because their registration forms were not processed and their names did not appear on the precinct rolls;
4. that African-Americans voters were singled out for criminal background checks at some precincts and that

9

one voter who had never been arrested was denied the right to vote after being told that he had a prior felony conviction;

5. that African-American voters were required to show photo ID while white voters at the same precincts were not subjected to the same requirement;
6. that voters who requested absentee ballots did not receive them but were denied the right to vote when they went to the precinct in person on election day;
7. that hundreds of absentee ballots of registered voters in Hillsborough County (covered by Section 5 of the Voting Rights Act) were improperly rejected by the Supervisor of Elections and not counted;

8. that African-American voters and other voters who requested assistance at the polls were denied assistance;
9. that African-American voters and other voters who requested the assistance of volunteer Creole/English speakers who were willing to translate the ballot for limited proficiency voters who were denied such assistance, additionally, other voters such as Spanish speaking voters needing language assistance were alleged to have been denied such;
10. that police stopped African-American voters as they entered and exited a polling place in Progress Village Center; and

11

11. that election officials failed to notify voters in a predominantly African American precinct that their polling place, a school, was closed and failed to direct them by signs or other means to the proper polling location.

There were also an unprecedented number of complaints of similar problems in other parts of the nation. Calls flooded the NAACP offices and other agencies seeking to lodge complaints about registered voters who were turned away from the polls because their names mysteriously did not appear in the precinct books.

In Virginia, there were numerous complaints of voters who registered in social services offices under the provisions of the National Voter Rights Act of 1965 who

were not allowed to vote because their registrations were not recorded. Among other examples, there were numerous reports in New York city that minority voters were denied the right to vote and in St. Louis, eyewitnesses say that at some precincts African-American voters were asked to show ID, while white voters in the same line were not asked to produce any identification.

These allegations raise potential violations of Sections 2 and 5 of the *Voter Rights Act of 1965*, 42 U.S.C. sec. 1973, as well as several provisions of the *National Voter Registration Act of 1993*, 42 U.S.C. sec. 1973gg-5(a) which affirms the right of *every* U.S. citizen to cast a ballot and have that ballot be counted must be protected without compromise and without regard to the voter's race. This is

a task for the federal government because federal guarantees in federal elections are at stake.

Mr. Chairman, this was truly a time in which justice delayed was justice denied. In addition to the number of allegations of voting irregularities that occurred in the state of Florida, it was revealed that a total of 180,000 ballots were not counted in Florida's presidential vote. The Gore Campaign, members of the Congressional Black Caucus, civil rights attorney's and the disenfranchised voters themselves sought for every Floridian's vote to be counted by requesting a hand count in the four counties that demonstrated voting irregularities. In these four counties in which the hand count was sought – all heavily Democratic areas – over 73,000 ballots were not counted in the presidential tally.

The basic right to have your vote counted is a basic right guaranteed and protected by the United States Constitution. It is understood that the preamble to the Constitution of the United States is not a source of power for any department of the Federal Government, however, the Supreme Court has often referred to it as evidence of the origin, scope, and purpose of the Constitution. In *Jacobson vs. Massachusetts*, Justice Harlan wrote in 1905, “that preamble indicates the general purposes for which the people ordained and established the Constitution,”...

This constitution like all constitutions is the property of a nation, and not of those who exercise the government. It is our belief, as Americans, that this democracy-our

democracy was and continues under the direct authority of the people of this nation.

In the words of “Freedom,” a poem by Langston Hughes we hear the threat to our national existence, “freedom will not come today, this year nor ever, through compromise and fear... I cannot live on tomorrow’s bread. Freedom is a strong seed planted in the soil. I live here too. I want freedom just as you.”

To begin to solve these problems I filed additional legislation, H.R. 60, entitled the ‘Secure Democracy for All Americans Act.’ This bill was filed on January 3rd of this year and would establish the ‘Commission on the Comprehensive Study of Voting Procedures’ to study and report to the President and Congress on all issues relating to

voting procedures in Federal, State, and local elections. I will also be adding additional elements to this legislation in the form of a new bill. The added elements to the new bill would give the Federal Election Commission the assigned role of providing grants to local governments to make prescribed improvements in their administration of elections.

I am delighted to have as an original cosponsor of this bill, the newly elected representative and the former Secretary of State of Rhode Island, Congressman James Langevin along with Congressman Ruben Hinojosa from the State of Texas.

While statutes were not enacted during this past election to prevent minorities from voting, actions

were taken that prevented minorities, women, the elderly, the disabled and thousands of other voters from invoking their constitutional right to vote.

Mr. Chairman, we must not let these actions to be revived from the burial ground of this country's past. To do so would wash away the tears of our ancestors, parents and even ourselves who fought for the right of every citizen's voice to be heard regardless of race, ethnicity, gender, age, and yes, even political affiliation.

Thank you.



**Testimony of Deborah M Phillips, Chairman
The Voting Integrity Project
March 14, 2001**

**U.S. Senate Committee on
Rules and Administration
Washington, D.C.**

About The Voting Integrity Project

The Voting Integrity Project ("VIP") is a national, non-partisan, non-profit voter rights organization founded in early 1996 out of concern for the unintended consequences of recent election reforms on voter enfranchisement and election integrity. A stolen vote disenfranchises legitimate voters and election fraud dilutes legitimate votes.

VIP's mission is to educate and equip Americans to protect election integrity in their own community. VIP Programs encourage participation not only as informed members of the electorate, but also volunteering as election judges and citizen poll watchers. VIP believes the lack of involvement by ordinary citizens in the conduct of their community's elections which has allowed vote fraud and irregularities to flourish.

VIP offers free seminars and training programs to communities on a strictly non-partisan basis. We operate an award-winning website that has become America's leading educational resource on election integrity issues. We operate a toll-free voter hotline where citizens can receive information on a wide variety of voter problems, and make first-hand reports of problems they encounter in registering and voting. We also provide qualified election monitors and study failed elections to understand the challenges to election integrity and voter rights today. VIP also litigates important voter rights issues.

We are "defending your freedom by protecting your vote."

The Voting Integrity Project
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VOTING INTEGRITY PROJECT
Known Election Integrity Problems

ST	YEAR	DESCRIPTION	SOURCE
AL	1994	Absentee Ballot Fraud - Green County; voter complaint that someone else voted their name; Raffles for votes	Media reports; Voter reports
AZ	2000	Phoenix - Early opening/counting of mail-in ballots	Court case
CA	1996, 1998, 2000	Illegal registration by non-citizens; large numbers of deadwood & fraudulent registrations; some isolated reports of voter disenfranchisement through purging; voters showing green cards to vote; unofficial letters sent with "voter id cards"; voters who reported being able to vote twice (electronically and at polls); concerns about counting and ballot transmission procedures; registrations via DMV that didn't make it on the books; no identify verification at polls; employer wouldn't give time off to vote	U.S. House of Representatives Task Force Report; voter reports
DC	1998	Student residency for voting purposes	Media reports; VIP Case Study
CT	2000	Multiple cases alleging voting fraud	Media reports
FL	1996, 1997, 1998, 2000	Counting problems and uncounted ballots; complaints about ballot configuration; Absentee Ballot Fraud; Illegal registrations; felons voting; disenfranchisement of qualified voters; lack of other-language assistance in minority polling places; non-registered permitted to vote; ballot boxes not turned in; voters turned away by poll workers for lack of driver's license, without mentioning alternate forms of id; voters who presented themselves to vote and were told they had already voted	Miami Mayoral contest; media reports; VIP case study; Voter Reports
GA	1999	Large numbers of dead voters on rolls; Absentee ballot fraud; ballots kicked out for being marked incorrectly; electioneering by candidates in polls	Conviction of Valdosta official; voter reports
GUAM	1996	Non-U.S. citizens voting	Superior Ct findings
IL	2000	Voter knocked off rolls who voted for 20 yrs and hadn't moved	Voter Report
HI	1998, 2000	Non-U.S. citizens voting; absentee ballot fraud; machine problems	Media Reports; VIP Case Study
KS	2000	Letting people vote who were not on the rolls	Voter Report
KY	2000	Complaint of equipment malfunction and inattentive election worker	Voter Report
IN	2000	As many as 1 in 5 voter names have died, moved or are convicted felons	Media Reports

ST	YEAR	DESCRIPTION	SOURCE
LA	1996	Vote hauling; vote buying; machine tampering; LA Election Commissioner convicted of money laundering/bribery scheme	VIP Case study, media reports & U.S. Senate Rules Committee Investigation
MD	1998	Absentee Ballot Fraud; voters permitted to vote without proper address verification; machine problems; deadwood	VIP Case Study; voter reports; media reports
MI	1998	Primary results delay 2 weeks due to equipment problems	Media reports
MO	2000	Dead & fictitious voters; polls opened beyond statutory time frame based on erroneous information; fraudulent registrations; voters permitted to vote who were not on rolls; complaints that sample ballots (filled in for one party) taped to voting booths; vote buying	Media reports; voter reports; court reports
MT	1996	Remarking of ballots with whiteout	Voter Report
NH	1996	Programming error in certified machines caused slated ballots for candidate to register zeros	VIP Case Study; media reports
NJ	1998	Electioneering	Voter Report
NM	2000	Absentee ballots impounded but no allegations	Media reports
NV	1998	Voting machine tampering alleged	Media Reports; voter reports
NY	2000	Machines will not record write-in votes; requested absentee ballots not received; machine problems prevented vote for candidate of choice; reports of voting booths not open causing delays; voter redirected, made to wait too long; ripple for votes; dead voters	Media Reports; voter reports
NC	1998, 1999	Duplicate voter registrations by non-residents	VIP Case Study
OH	1999	Officials failed to remove withdrawn spoiler candidate from ballot prior to election	VIP Case Study; Media Reports
OK	1998, 1999, 2000	Large numbers of deadwood on rolls; Dead voters; election workers not following verification procedures; voter concern about privacy of ballot	Media reports; Voter reports
OR	1999-2000	Illegal ballot collection procedures; thousands of voters received multiple ballots or ballots of persons no longer living or at that address; questionable purging procedures; counting delays because of large numbers of last minute ballots received; unauthorized ballot collectors; late ballots received, unable to vote; incomplete ballots received	Media reports; voter reports; VIP case study

ST	YEAR	DESCRIPTION	SOURCE
PA	1997	Multiple cases of absentee ballot fraud in multiple jurisdictions and multiple years; signature fraud; non-residents permitted to vote; intimidation of poll watchers; coercion of vulnerable special needs voters; fake poll watcher certificates; electioneering	VIP Case study & media reports; court cases; voter reports
RI	1996	voter equipment and administration problems alleged	Media report
SC	2000	Chester County fraud; Pacolet alleged voter coercion by employer	Voter Reports
TN	1998	Voter fraud alleged; equipment problems alleged	Voter Reports; VIP case study
TX	1999	Counting procedures questioned; uncertified modifications to voting system; absentee ballot fraud; voter not able to vote/not on rolls (not felon; not moved)	San Antonio Case 99-CI-06959
VA	2000, 1999	Voter told she was at wrong poll; couldn't find right poll and then didn't have id; poll poorly organized/long lines, Immigrant ID Scam alleged in Northern VA; voter roll deadwood; illegal purging	Voter Report; media reports
WA	2000	Severe counting delays because of large numbers of mail-in ballots; ballot remarking; pre-election day counting; misprinting of ballots	Media reports
WV	2000	Voter registered using on-line form; not on rolls on ED	Voter report
WI	2000	Variety of allegations including vote hauling, "smokes for votes", unattended polls, disenfranchisement, etc.; Milwaukee DA investigating; persons voting multiple times	Media reports; voter reports
Other	2000	Multiple ballots received; absentee ballots not received in time; concern that ballots may not have been counted	Voter reports; media reports

ST	Trad	No Fault	Early Voting	App	Written Request	Fax	Phone	Ballot Same	# of Envelopes	Signature (Inner Envelope)
AL	Y	N	N	Y	Y	N	N	Y	2	Y
AK	N	Y	Y	Y	Y	Y	N	Y	2	N
AZ	N	Y	Y	Y	Y	Y	Y	Y	D.B.C.	dbc
AR	Y	N	Y	Y	Y	Y	N	D.B.C.	D.B.C.	on voter statement
CA	N	Y		Y	Y	N	N	Y		
CO	N	Y	N	Y	Y	N	N	Y	2	Y
CT	Y	N	N	Y	N	N	N	Y	2	Y
DC	Y	N	Y							
DE	Y	N	N	Y	Y	N	N	Y	3	Y (2nd)
FL	N	Y	N	Y	Y		Y	Y	1	Y (ballot)
GA	N	Y	Y	Y	Y	Y	N	D.B.C.	2	N
HI	N	Y	N	Y	N	N	N	Y	2	Y
ID	N	Y	N					Y	2	Y
IL	Y	N	N	Y	N	N	N	Y	2	Y
IN										
IA	Y	N	N	Y	Y	N	N	D.B.C.	4	Y (2nd)
KS	N	Y	Y	Y	N	N	N	Y	1	N
KY	Y	N	N	Y	Y			N	2	Y
LA	Y	N	N	Y	Y	Y	Y	Y	2	Y
ME				Y	Y	Y	Y	D.B.C.		Y
MD	Y	N	N	Y	Y	N	N	D.B.C.	2	Y
MA	Y	N	N	Y	Y	N	N	Y	2	Y
MI	Y	N	N	Y	Y	N	N	D.B.C.	2	N
MN				Y	N	N	N	Y	2	N
MS	Y	N	N	Y	N	N	N	Y	2	Y
MO	Y	N	N	Y	Y	N	N	Y	1	N
MT	Y	10/1/99	N	Y	Y	N	N	Y	2	N
NE	Y	8/31/99	N	Y	Y	N	N	Y	2	N
NV	Y	N	N	Y	Y	N	N	D.B.C.	2	Y
NH	Y	N	N	Y	Y	N	N	Y	2	Y
NJ	Y	N	Y	Y	N	Y	Y	Y	2	Y
NM	N	Y	Y	Y	N	N	N	D.B.C.	2	Y
NY	Y	N	N	Y	N	N	N	Y	1	N
NC	Y	N	N	Y	Y	N	N	D.B.C.	2	Y
ND	N	Y	N	Y	Y	N	N	D.B.C.	2	N
OH	Y	N	N	Y	Y	N	N	D.B.C.	2	Y
OK	N	Y	N	Y	Y	N	N	Y	3	Y (2nd)
OR — only state where all voters vote by mail										
PA	Y	N	N	Y	Y	N	N	D.B.C.	2	Y
Ri	Y	N	N	Y	N	N	N	Y	2	Y
SC	Y	N	N	Y	N	N	N	N	2	N

SD	Y	N	N	Y	Y	N	N	Y		2	Y
TN	Y	N	Y	Y	Y	N	N	Y		2	Y
TX	N	Y	Y	Y	N	N	N	Y		3	Y (2nd)
UT	Y	N	N	Y	Y	N	N	D.B.C.	D.B.C.		D.B.C.
VT (information not available)											
VA*	Y	N	N	Y	Y	Y	N	Y		2	Y
WA	N	Y	Y	Y	Y	Y	Y	Y		2	N
DC	Y	N	Y								
WV (information not available)											
WI	Y	N	N	Y	Y	N	N	Y		2	Y

ST	Signature (Outer Envelope)	# Req to Witness	Witness Only If Aided	Earliest App-days Prior	Latest App (Days Prior)	Last Ballot Accepted**	Counted X Days Before Election Day	Counted on Election Day	Counted by X Days After Election Day	Counted W/in Voter's Precinct	Counted in Separate Precinct
AL	N	2	N	45	N/A	ED	N/A	Y	N/A	D.B.C.	D.B.C.
AK	Y	1	N	1-Jan	N/A	ED	N/A	Y	N/A	Y	N
AZ	D B C	0	N	90	N/A	ED	N rule	N rule	5	D.B.C.	D.B.C.
AR		0	N	60	N/A	ED	N rule	N rule	N rule	D.B.C.	D.B.C.
CA				1		ED				D.B.C.	D.B.C.
CO	N	0	N	1-Jan	N/A	ED	-10	N	10	D.B.C.	D.B.C.
CT	N	0	Y	N/A		1	-	N/A	Y	Y	N
DC						10			10		D B C
DE	N	0	N			ED	N/A	Y	N/A	Y	N
FL	N	1	N				verified 4	Y	N/A		D B C
GA	Y	0	Y	180	1	ED	N/A	Y	N/A	Y	N
HI	N	0	N	60	7	ED	N/A	Y	N/A		
ID	N	0	N	N/A	N/A	ED	N/A	Y	N/A	Y	N
IL	N	0	Y	40	5(mail)	ED	N/A	Y	N/A	Y	N
IN						ED	N/A	Y	N/A	N	D B C
IA	N	0	N			70	1	N/A	N/A	N	Y
KS	Y	0	N	45	4	ED	N/A	Y	N/A	D.B.C.	D.B.C.
KY	Y	0	Y	day after prev.	7	ED	N/A	Y	N/A		
LA	N	2 (or Ntary)	N	60	4	ED	N rule	N rule	N rule	D.B.C.	D.B.C.
ME		N	Y			ED	N/A	Y	N/A		
MD	N	0		N/A	7	ED	N/A	N	2	Y	N
MA	N	0		N/A	N/A	ED	N/A	Y	N/A	Y	N
MI	Y	0	Y	75	N/A	ED	N/A	Y	N/A	D.B.C.	D.B.C.
MN	Y	1	N			ED	N/A	Y	N/A	Y	N
MS	N	1	Y			ED	N/A	Y	N/A	Y	N
MO	Y	Ntary	Y	N/A	N/A	ED	N/A	Y	N/A	0	N
MT	Y	0	Y	75	1	ED	N/A	Y	N/A	Y	N
NE	Y	0	Y	120		ED	***N/A	Y	N/A	Y	N
NV	N		0	N/A	7	ED	N/A	Y	N/A	D.B.C.	D.B.C.
NH	N		0	N/A	N/A	ED	N/A	Y	N/A	Y	N
NJ	N		0	40	7	ED	N/A	D.B.C.			10
NM	N	0	Y	40	N/A	ED	N/A	Y	N/A		
NY	Y	0	Y	N/A	D.B.C.	ED	N/A	Y	N/A	N	Y
NC	Y	2	N	50	N/A	ED	N/A	Y	N/A	N	Y
ND	Y		0	1-Jan	N/A	ED	N/A	Y	N/A	Y	N
OH	N			0	N/A	10 after*	N/A	Y	10	N	Y
OK	N	0	Y	N/A	7	ED	N/A	Y	N/A	Y	N
OR --- only state where all voters vote by mail; ballots can take weeks to complete counting											
PA	N	0	Y			ED	N/A	Y	N/A		

RI	N	2 or Ntary	N	N/A	N/A	ED	N/A	Y	N/A	Y	N
SC	Y		1 N	N/A		4 ED	N/A	Y	N/A	N	Y
SD	N			0	1-Jan	ED	N/A	Y	N/A	D.B.C.	D.B.C.
TN	N		0 Y		90	7 ED	N/A	Y	N/A	N	Y
TX	N		0 N		60	7 ED	x ^^	Y	N/A	Y	D B C
UT	D.B.C.	D.B.C.	D.B.C.	N/A	N/A		N/A	N		10	
VT											
VA*	N		1		45	3 ED	N/A	Y	N/A	N	Y
WA	Y		0	2	45	15 after	N/A	Y		15	
WI	N		2 N	N/A	N/A	ED	N/A	Y	N/A	Y	N
WY	N			0	1-Jan	1 ED	N/A	Y	N/A	Y	N

ST	Signature on App Verified	Ballot Signature Matched to Application	ballot signature matched to voter registration		same day voter registration		Nursing home problems	Special nursing home provisions	Absentee Ballot Fraud Alleged
AL	name	N	N		N		complaints	N	Y
AK	N	Y	N		Presidential		N	N	
AZ	N	N	Y		N		D.B.C.	D.B.C.	D.B.C.
AR	Y	N	Y		N		Y	optional	Y
CA			Y		N		N	N	
CO	Y	N	Y		N		N	N	Y
CT	Y	D.B.C.	D.B.C.		N		N	Y	Y
DE	N	Y	N		N		Y	optional	
FL									
GA	Y	N	Y		N		N	Y	Y
HI	Y	N	Y		reregister		N	N	
ID		N	Y		Y		N	N	
IL			Y		N		Y	Y	Y
IN									
IA	N	Y	N		N		N	Y	
KS	Y		Y		N		N	N	
KY	N	N	Y		N		Y	N	
LA	N	N	Y		N		N	Y	
ME	if available	N	N						
MD	N	N	N		N		N	optional	
MA	name	Y	N		N		N	N	
MI	Y	N	Y		N		Y	optional	Y
MN	Y	N	Y		Y		N	Y	
MS	N	N	if problem		N		Y	N	Y
MO	Y	Y	Y		N		Y	N	
MT	Y	Y	N		N		N	N	
NE	N	N	Y		N		Y	optional	
NV	Y	N	Y		N		D.B.C.	N	
NH	Y	Y	Y		Y		N	N	
NJ	Y	N	Y		N		Y	N	
NM	Y	N	D.B.C.		N		Y	N	Y
NY	Y	N	Y		N		some	N	
NC	name	N	N		N		Y	Y	
ND	****N	Y	****N		****N		N	Y	
OH	Y				N				Y
OK	N	N	N		N		D.B.C.	N	
OR — only state where all voters vote by mail									
PA	N	N	if problem		N		Y	N	Y
RJ	N	Y	N		limited		N	Y	
SC	Y	N	Y		N		Y	N	

SD	N	Y	N		N		Y	N	
TN	Y	Y	Y		N		N	Y	Y
TX	Y	Y	Y				N	N	Y
UT	Y	Y	Y		N		N	N	
VT (information not available)									
VA*	N	N	N		N				
WA	N	N	Y		N		D.B.C.	N	
DC									
WV									
WI	N*****	if problem	N*****		Y*****		N	Y	
WY	N						N	N	

*Virginia prohibits voting by absentee the first election following a mail-in registration.

Voting Integrity Project

ABSENTEE BALLOT RECOMMENDED REFORM

When it comes to absentee ballot procedures, one overriding principle has shown to be true: The more relaxed the process is, the greater the opportunity for fraud. Experts disagree that mail-in absentee balloting increases voter turnout. At least one study has shown that absentee balloting may actually harm turnout and limit a voter's opportunity to respond to last minute campaign information. Certainly mail in absentee balloting increases the opportunity for fraud and requires much more stringent oversight to protect voters' franchises — not only the franchise of those who would vote by absentee, but of other legitimate voters, whose votes may be diluted by fraud.

Eligibility

- Should be limited to actual necessity
- Should be permitted only for specific reason — i.e., health, business, military.
- Should be more stringent for those requiring mail absentee than those voting in person prior to election.
- Should be prohibited for those voting the first time following a mail-in registration
- Should be prohibited for any voter that has not responded prior to election day to a voter verification questionnaire

Definition of Legal Residence

- Should be specific in the law with specific procedures for challenge and enforcement
- Should prohibit and check for duplicate addresses (temporary domiciliary care home, seasonal residents, students)
- Limit use of Post Office box addresses to authorized public safety personnel.

Application Process

- Request only in writing or in person and require appropriate identification
- No telephone or fax requests
- No third party requests (nursing home administrators, legal guardians, caretakers) (or use bar coding to identify distributor of absentee ballot forms by organization)

Ballot Mailing

- Do not publicize or make known the dates of absentee ballot mailing
- Mail ballots on random basis, and not on specific date

Voter Education

- Increase voter education regarding legal vs illegal handling of absentee ballots
- Make read-through portion of absentee ballot form & envelope

Validation of Ballot Execution

- Two bi-partisan witnesses should be required for any absentee ballot opening/counting
- Witnesses should print name and address & sign (failure should automatically disqualify)
- Severely limit the number of ballots any one particular person may witness (no more than 3, for example)
- Require on-site bi-partisan pairs of election officials to witness the execution of nursing home/personal care home ballots

Signature on File

- Regularly scheduled “refreshing” of signatures on file with Elections Division
- Mandatory signature refreshing at critical life measures (certain ages; infirmity)

Pre-paid Postage

- Prepaid (Business Reply Envelopes) postage would make infirm or elderly voters less dependent on others to mail absentee ballots

Photo ID

- The requirement of a photo-voter card for all voters, and then requiring a copy of that card for all absentee mail-in ballots
- If driver’s licenses with photo carry signatures and are renewed every 2-5 years, this may suffice..

Training

- Mandatory training (and certification?) by professional signature analysts or according to a protocol constructed by psa’s on how to spot differences in signatures that may be fraudulent; or
- Use of signature verification program utilizing digitized (not digital) signatures

Handling of requests

- Compare all signatures on file with signature on outside of envelope (if significant difference and no explanation on file) set aside for direct contact with voter to substantiate
- Do not permit requests to emanate from third parties (nursing home administrators, political campaigns)

Documentation

- Special notations should be made on a voter’s voting history record who utilizes absentee ballots
- All absentee ballots and related documentation for any election should be retained and safeguarded for a period of 24 months from the date of election
- Absentee ballots should be made publicly available for independent verification of signatures immediately following certification of elections.

Voting Integrity Project Model Legislation

The following model legislation has been created at the request of and for the use of state legislators and staff. These are offered as generic models and would have to be conformed to a specific state's election laws, practices and procedures, before introduction.

VOTER IDENTIFICATION AT THE POLLS

An Act relating to voting procedures at the polls; voter identification; certain challenged votes.

Section One. Definitions.

(1) Officer of Election is anyone who has been authorized by the Office of Elections to perform in-precinct administration of an election.

Section Two. Qualified voter permitted to vote; procedures at polling place; voter identification.

(1) After the polls are open, each qualified voter at a precinct shall be permitted to vote. The officers of election shall ascertain that a person presenting themselves to vote is a qualified voter before admitting him to the voting booth and furnishing an official ballot to him.

(2) An officer of election shall ask the voter for his full name and current residence address and repeat, in a voice audible to party and candidate representatives present, the full name and address stated by the voter. The officer shall ask any the voter, who is subject to the requirement to vote in person to present any one of the following forms of identification: his [INSERT STATE] voter registration card, his social security card, any preprinted form of identification which shows his name and address, any preprinted form of identification which shows his name and signature, or any preprinted form of identification which shows his name and photograph such as his valid [INSERT STATE] driver's license, or any other identification card issued by a government agency of [INSERT STATE], one of its political subdivisions, or the United States; or any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business.

(3) If the voter's name is found on the registered voter list, if he presents one of the forms of identification listed above, if he is qualified to vote in the election, and if no objection is made, an officer shall mark the voter's name on the registered voter list; an officer shall enter, opposite the voter's preprinted name on the poll book, the first or next consecutive number from the voter count form provided by the State Board; an officer shall provide the voter with the official ballot; and another officer shall admit him to the voting booth.

(4) If a voter, who is subject to the requirement to vote in person pursuant to [CROSS REFERENCE] is entitled to vote except that he is unable to present one of the forms of identification listed above, he shall be allowed to vote after signing a statement, subject to felony penalties for false statements pursuant to [CROSS REFERENCE], that he is the named registered voter who he claims to be.

A voter may be accompanied into the voting booth by his child age fifteen or younger.

(5) If the current residence address stated by the voter is different from the address shown on the registered voter list, the officer of election shall furnish the voter with a change of address form prescribed by the State Board. Upon its completion, the voter shall sign the prescribed form, subject to felony penalties for making false statements pursuant to [CROSS REFERENCE], which the officer of election shall then place in an envelope provided for such forms for transmission to the general registrar who shall then transfer or cancel the registration of such voter pursuant [CROSS REFERENCE] of this title.

(6) At the time the voter is asked his full name and current residence address, the officer of election shall ask any voter for whom an

identification number other than a social security number is recorded on the registered voter list if he presently has a social security number and note that number on the list if the voter is able to provide it. Any social security numbers so provided shall be entered by the general registrar in the voter's record on the voter registration system.

(7) The Board is authorized to conduct a pilot project requiring mandatory voter identification at the polling place, in up to ten jurisdictions, if agreed to by the jurisdiction's local electoral board. Proper voter identification includes a Virginia voter identification card, social security card, or any preprinted form of identification with the voter's name and address, preprinted form of identification with name and signature, or preprinted form of identification with name and photo. Additionally, if a voter is entitled to vote, except that he fails to present one of the forms of identification listed above, he shall be allowed to vote, by signing a statement, subject to felony penalties for false statements pursuant to [CROSS REFERENCE] that he is the named registered voter he claims to be.

Section 3. Voter who is shown as having already voted; challenge and procedure for voting; voter identification.

The officers of election shall challenge the vote of any person who offers to vote, who is listed on the precinct registered voter list, and whose name is marked to indicate that he has already voted in person in the election.

When the person is challenged, an officer shall explain to him the basis for the challenge. If the person being challenged states that he has not voted and is qualified, an officer shall ask the voter to present one of the following forms of identification: his Commonwealth of Virginia voter registration card, his social security card, any preprinted form of identification which shows his name and address, any preprinted form of identification which shows his name and signature, or any preprinted form of identification which shows his name and photograph his valid Virginia driver's license, or any other identification card issued by a government agency of the Commonwealth, one

of its political subdivisions, or the United States; or any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business.

If the person presents the requested form of identification showing him to be the person listed on the precinct registered voter list, an officer of election shall give him the form set out in [CROSS REFERENCE] for the person to sign subject to felony penalties for making false statements pursuant to [CROSS REFERENCE].

If the person challenged refuses to sign the statement, he shall not be permitted to vote. If, however, he signs the statement, he shall be permitted to vote on the voting system in use at the precinct.

When the voter has shown the requested identification, has signed the statement, and is permitted to vote, the officers of election shall mark the precinct registered voter lists and shall indicate that the person has signed the required statement in accordance with the instructions of the State Board of Elections.

THE ELECTION VENDOR DISCLOSURE AND RESPONSIBILITY ACT

Section One — No vendor of voting machines, voting devices, computer software programs or other such election equipment designed to register, receive, tally or count votes ("Voting Equipment") shall be allowed to distribute Voting Equipment in the State of [] unless the Secretary of State has approved the vendor after investigation of the financial responsibility, security, and integrity of the vendor. The Secretary of State may require the following items from the vendor during such investigation and periodically thereafter if the vendor continues to distribute Voting Equipment in this State:

A disclosure of the vendor's name and address and, as applicable, the names and addresses of the following individuals or entities ("Key Personnel"):

If the vendor is a corporation, the officers, directors, and each stockholder in such

corporation; provided, however, that in the case of owners of equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to own beneficially five percent (5%) or more of such securities need be disclosed;

- (2) If the vendor is a trust, the trustee and all persons entitled to receive income or benefits from the trust;
- (3) If the vendor is an association, the members, officers, and directors; and
- (4) If the vendor is a partnership or joint venture, all of the general partners, limited partners, or joint venturers;

(B) A disclosure of all the states and jurisdictions in which the vendor does business and the nature of the business for each such state or jurisdiction;

(C) A disclosure of all the states and jurisdictions in which the vendor has contracts to supply Voting Equipment and the nature of the goods or services involved for each such state or jurisdiction;

(D) A disclosure of all licenses and certificates of authority issued by any governmental entity to the vendor and Key Personnel, including any pending applications, renewals, denials, cancellations, terminations, or revocations;

(E) A disclosure of the details of any conviction, adjudication, or plea of guilt, including a plea of nolo contendere, in a state or federal court, of the vendor, Key Personnel, or other managers for any felony or other criminal offense other than a traffic violation;

(F) A disclosure of the details of any past or pending bankruptcy, insolvency, or reorganization of the vendor;

(G) A disclosure of all litigation in which the vendor or Key Personnel were named defendants within the past five years or any judgment awarded against the Vendor, Key Personnel or managers; and

(H) Such additional disclosures and information as the Secretary of State may determine to be appropriate for the approval process.

If at least twenty-five percent (25%) of the cost of a vendor's Voting Equipment is subcontracted, the vendor shall disclose all of the information required by this Code Section for the subcontractor as if the subcontractor was itself a vendor.

Section Two — No vendor shall be allowed to distribute Voting Equipment in this State who has not complied with the disclosure requirements described in Section One and has not been approved by the Secretary of State. Any contract with such a vendor shall be voided by the Secretary of State. Any contract entered into by a vendor who does not comply with such requirements for periodically updating such disclosures shall also be voided by the Secretary of State. The provisions of this Code section shall be construed broadly and liberally to achieve the ends of full disclosure of all information necessary to allow for a full and complete evaluation by the Secretary of State of the competence, integrity, background, and character of vendors distributing Voting Equipment in this State.

Section Three — A vendor who has been found guilty of a felony involving fraud, embezzlement, misrepresentation, or dishonesty or a felony related to the security or integrity of an election or the bribery of a government official in this or any other jurisdiction shall not distribute any voting equipment in this State. If any of the Key Personnel or managers of a vendor have been found guilty of a felony involving fraud, embezzlement, misrepresentation, or dishonesty or a felony related to the security or integrity of an election or the bribery of a government official in this or any other jurisdiction, such vendor shall not be allowed to apply for approval to the Secretary of State for permission to distribute any voting equipment in this State until such individual's or entity's relationship with the vendor is completely severed. Any vendor that has already received such approval shall have that approval revoked unless until such individual's or entity's relationship with the

vendor is completely severed.

Section Four — No vendor may pay, give, or make any gift, loan, gratuity, special discount, favor, hospitality, or service, excluding food and beverages having any aggregate value not exceeding \$100.00 in any calendar year, to any elected official, or to any state, city or county employee, or member of a board or commission, who has any responsibility for conducting elections.

Section Five — A vendor which is not a corporation, trust or partnership organized and existing under the laws of the United States or of any state of the United States, or which is a wholly-owned or majority controlled subsidiary of a corporation, trust or partnership which is not organized and existing under the laws of the United States or of any state of the United States, shall not distribute election equipment in this State.

INTERNET VOTING LEGISLATION

Section One. Definitions.

(1) "Internet Voting Machines" means a voting machine that allows the elector to cast a ballot over the Internet through a Secure Electronic Network ("SEN").

(2) "SEN" means a Secure Electronic Network as described in Section Three.

(3) "Secretary" means the Secretary of State [or Chief Election Official of a State].

Section Two. Powers and Duties.

(1) A qualified elector in this state may vote in any election by the use of an Internet Voting Machine connected to a Secure Electronic Network that is approved pursuant to Section Three of this Act.

(2) The Secretary shall establish all standards and adopt all rules and regulations required to achieve the purposes of this Act.

Section Three. Establishment of Standards for Secure Electronic Networks.

The Secretary shall establish standards

that a SEN is required to meet before the SEN may be issued a permit by the Secretary authorizing its use for an election in this state. To qualify for use in an election, a SEN shall demonstrate the existing capacity to do all of the following:

(1) Provide for the secure identification and authentication of any information transmitted on the system, including, but not limited to, personal information required to be provided by qualified electors.

(2) Provide for the secure identification and authentication of all elections officials and electoral jurisdictions, their servers, and all other related electronic equipment being used by the elections officials and electoral jurisdictions supervising and responsible for voting.

(3) Protect the privacy, integrity, and anonymity of each qualified elector's ballot and prevent any third party, including election equipment vendors, from obtaining or retaining any information or data about electors and their votes.

(4) Prevent the casting of multiple ballots by any qualified elector and prevent the casting of ballots by ineligible electors or unauthorized individuals.

(5) Provide protection against tampering, fraudulent use, illegal manipulation, or other abuse by voters, election officials, or any other individual or group.

(6) Be readily accessible and easy to use by each qualified elector.

(7) Legibly convey all information included in the ballot for each qualified elector, including lists of all candidates for office and all ballot measures qualified to appear on the ballot.

(8) Provide the means by which qualified electors may cast write-in votes for candidates whose names do not appear on the ballot.

(9) Provide uninterrupted, reliable availability during the voting period established

by law.

(10) Be usable by qualified electors with disabilities.

(11) Be capable of being upgraded as technology improves.

(12) Be capable of archiving votes, allowing recounts, and of being audited as to contents, results, and process at a sufficient level to guarantee the integrity of the system and the public's confidence in its integrity.

(13) Be capable of transmitting information over a secure encrypted network.

(14) Be capable of establishing an Internet website that securely receives ballots, provides ballots to qualified electors that reflect the elections in their electoral jurisdictions, and cannot be interrupted or shut down by denial of service, virus or other attacks.

(15) Be capable of tabulating ballots cast to its Internet website.

(16) Be capable of securely transmitting data submitted on its Internet website to state and local election officials.

(17) Provide electors with receipts showing that their votes have been received by the election system machine that tabulates votes without alteration in transit.

(18) Be capable of allowing independent monitoring by poll watchers in the same manner that poll watchers are able to observe the election process under current state law.

(19) Provide electors with software that will protect and ensure the confidentiality of their ballots and will prevent any third parties, including network administrators, from reading, copying or changing the votes which have been cast through a remote Internet Voting Machine and warn voters that the confidentiality of their votes will be breached if they do not use or download the software provided.

Section Four. Testing of SEN.

(1) Before qualified electors may use a SEN, the Secretary shall perform the tests necessary to establish that the SEN conforms to the requirements of Section Three and the standards adopted by the Secretary pursuant to this section.

(2) The Secretary shall examine each proposed SEN and either approve and certify that it is fit for use and issue a permit authorizing its use, or deny its approval and certification. If approval is denied, the denial shall specify in writing the reasons for the denial.

The Voting Integrity Project is a national non-partisan 501(c)(3) tax exempt voter rights organization.

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VOTING INTEGRITY PROJECT POLL WATCHER GUIDELINES

Since the November election, VIP has received many inquiries about VIP Poll Watcher Training programs. VIP did significant pilot work in the area of poll watcher training in Maryland in 1998-1999. What we found was that citizen poll watchers serve an important role in preventing fraud, increasing voter participation, increasing general integrity and efficiency of election administration practices, and heightening public confidence in election outcomes.

However, we are also painfully aware that there is vast variances in how poll watcher programs are set up. Most election offices are very underfunded, and barely have the resources to administer elections, let alone perform the secondary tier of functions (voter education, voter registration cleanup, recruiting/training/retaining of election workers). Most training programs for election workers do not focus on fraud prevention or identification. And most election workers have their hands full on election day just administering the election. So citizen poll watchers can contribute to the integrity of the election by the careful observation of the process and documentation of any irregularities.

To be truly effective, a citizen poll watcher program should meet these requirements:

1. Be truly non-partisan, i.e., performed by partisans of all persuasions under the auspices of an independent, non-partisan group such as VIP. Because of the way state laws are written, poll watchers generally must be certified through political parties or campaigns. However, when VIP conducts a program it requests the parties to provide blank certificates and then notifies its poll watchers that their certificate may not necessarily represent their political persuasion. This is because VIP believes that it is better to have non-partisan eyes on the process. Too often, partisan poll watchers are merely used as tools of the campaigns to "get out the vote" and are not trained or equipped to prevent or detect irregularities or fraud.
2. Work, to the greatest extent possible, in cooperation with election officials, as a "value-added" to government's role in administering elections. This should include participation in all aspects of the election administration -- from the selection of an election system, configuration of the ballot, review of administrative protocols -- to help in recruiting election workers and judges, new voter registration (in a truly non-partisan way), and voter education programs (about the election system -- not the candidates). [Please note: VIP does not endorse the concept of partisan assistance with absentee ballots, as that often cloaks fraudulent activities. However, we do endorse the provision of bi-partisan pairs of election monitors for execution of absentee ballots for residents of personal care homes to ensure their votes are not coerced or stolen.]
3. Any poll watcher training program must begin with thorough review and knowledge of the election laws, equipment and administrative protocol. Review federal & state constitutions and laws relating to elections and voter rights; review training manuals for election workers; be knowledgeable about the flaws of the election system in use and past history of problems in elections in your area.
4. Perform a voter registration clean up program. This involves taking the voter registration list and to the extent you are able, given the limits of access and resources, identify and make election officials aware of invalid or fraudulent names residing on the rolls. Use the list of active, inactive, and questionable voters at the polls. Be sure to format it in a way that is easily readable and usable by your poll watchers. Be aware that in most jurisdictions, the poll watcher has NO authority to directly challenge voters, but can alert election officials to questionable voters presenting themselves. Be sure that any voter names identified as invalid, fraudulent or questionable are properly notified to the election office so they may perform necessary due diligence (voter notification). This process is

essential to prevent inadvertent voter disenfranchisement and is required by federal law.

5. The principle role of citizen poll watcher is to observe and document. If there are problems on election day, the careful notes of poll watchers can become an invaluable resource for election officials, campaigns and others attempting to correct problems or pursue prosecution of fraud. Ideally, the notes should be signed by the individual poll watcher and collected within a day or so of the election. A hotline number for reporting serious problems should be established by the organizing agency. Poll watchers and support staff should also be trained in how to properly take witness statements.

6. Training programs should be limited to 2 hours and conducted in the 2 weeks prior to the election. (We believe in the old adage that a brain can absorb no more than the seat can endure). All poll watchers should be trained (even if they have received training before, although as the program grows you may be able to conduct a shorter "refresher" for repeat watchers.) Provide a manual with general rules, election statutes, equipment information and a copy of the election workers manual, should be provided. A copy of the voter registration roll (with flags for questionable names as described above) should be provided for the precinct they will be working in.

7. Be sure poll watchers understand the rules of their participation in the election. Be sure they are properly certified, work in an unobstructive fashion. Under no circumstances should poll watchers ever be perceived as threatening or obstructive to voters. Cameras should never be employed inside polling places.

8. Be sure your poll watchers are backed up by experts: A group of people who are well versed in the law, equipment and history of your jurisdiction.

9. Provide continuity to your program. It should be year-round -- not employed only in the weeks prior to election. Also, consider working with VIP to establish the Young Voter Outreach program in your area. This will not only help relieve the burden on your election officials, it can engage our youngest generations in a life-time of voter activity.

We have found that by properly training and equipping poll watchers, the experience can be truly positive, and will have a reverberating effect in the community. That one poll watcher has many friends, co-workers, neighbors, family -- all of whom will have greater respect for the process and the results of the election hearing such positive reports on the election.



**Lawyers' Committee for
Civil Rights Under Law**

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— Submitted by Senator Dodd for —
Hearing Record

*Received from
Kennie @ hearing
3/14
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**WRITTEN TESTIMONY OF
BARBARA R. ARNWINE, EXECUTIVE DIRECTOR OF THE LAWYERS'
COMMITTEE FOR CIVIL RIGHTS UNDER LAW**

**THE UNITED STATES SENATE COMMITTEE ON RULES AND
ADMINISTRATION
HEARING ON ELECTION REFORM**

March 14, 2001

The Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee") would like to thank Chairman McConnell and Senator Dodd for holding these important hearings and for providing the Lawyers' Committee with the opportunity to participate. We appreciate the opportunity to present to the Senate Committee on Rules and Administration information about matters critically important to the constituencies of the Lawyers' Committee, namely, the recent disenfranchisement of African-American voters during the November 7, 2000 elections and the subsequent need for election reform.

The Lawyers' Committee for Civil Rights Under Law is a 38 year old nonpartisan, nonprofit civil rights legal organization. It was formed in 1963 at the request of President John F. Kennedy to involve the private bar in providing legal services to address racial discrimination. The principal mission of the Lawyers' Committee is to secure, through the rule of law, equal justice under law. As such, the Lawyers' Committee has a project devoted to Voting Rights, the mission of which is to advance and protect the voting rights of African Americans and other racial minorities throughout the United States. In addition to investigating the complaints that have come out of Florida, the Voting Rights Project of the Lawyers' Committee has been intensely involved in redistricting efforts, felon disenfranchisement cases and Census 2000 issues.

Beginning on election day, the Lawyers' Committee started to receive hundreds of complaints about irregularities from voters throughout Florida. Those complaints had escalated so much by Thursday, November 9, 2000, that the Lawyers' Committee, at the request of the NAACP, sent a team of lawyers to Miami, Florida. These lawyers spent the next several days

investigating, taking complaints and hearing directly from voters throughout Florida about the troubles they encountered when they went to vote. Reacting quickly to the complaints they received, the NAACP demonstrated outstanding and effective leadership by immediately arranging to hold public hearings in Miami on the Saturday following the election in order to better learn what happened on election day.

The Lawyers' Committee participated in these hearings. They illuminated the extent of the problem – people from all over the state testified about barriers they encountered or saw others encounter, including intimidation, wrongful purging of eligible voters from precinct voter lists, moved or demolished polling places, failure to process new voter registration forms, improper requests for multiple forms of identification and other kinds of disparate treatment of minority voters on election day.

Many complaints we heard implicate both state and federal voting rights laws. The problems were indicative of major countywide and statewide systemic voting practices which worked to disenfranchise black voters. These included practices that invalidated a disproportionate number of ballots cast by black voters, and resulted in qualified black voters not being allowed to vote.

The individuals we heard from in Florida were devastated and demoralized by the fact that a right of citizenship that they hold so precious was taken away. We present here a few examples of the most egregious complaints that we received. These are complaints which we included in a lawsuit that we filed in January together with a number of civil rights legal organizations¹ on behalf of the NAACP by its Florida branch and 21 named plaintiffs (see attached.)

VALERIE BUFORD-WELLS is a properly registered voter residing in Broward County. On November 7, 2000, Ms. Buford-Wells went to her assigned precinct and presented her voter registration card and driver's license to the precinct official. The official informed her that her name was not on the list of registered voters. The precinct official tried to call the Broward County Supervisor of Elections office but the line was busy. There is no valid basis upon which Ms. Buford-Wells could have been purged from the voter rolls. Ms. Buford-Wells was improperly denied the right to vote.

MICHELLE FLOYD, a college student and new voter, submitted a completed voter registration application to the Leon County Supervisor of Elections in September 2000. On November 7, 2000 she went to vote at her local polling site at the Florida A&M University Grand Ballroom. Ms. Floyd was listed on the precinct register, but instead of being given a ballot, she was referred to a clerk at another table. The clerk reviewed Ms. Floyd's identification, but then told her she could not vote and she would have to call someone else to deal with her situation. Ms. Floyd was never permitted to vote on November 7. Shortly after the election, Ms. Floyd received her voter registration card in the mail. The card listed her registration date as September 5, 2000 and her polling site as the Grand Ballroom, where she went to vote in November. Ms.

¹The civil rights organizations involved in the Florida lawsuit, *NAACP v. Harris*, include the Lawyers' Committee for Civil Rights Under Law, the NAACP, the ACLU Foundation, People for the American Way Foundation, the NAACP Legal Defense and Educational Fund and the Advancement Project.

Floyd was improperly denied the right to vote on November 7, 2000.

WILLIE STEEN has been a properly registered voter living in Hillsborough County, Florida since he was honorably discharged from the military in 1993. He has lived at his current address since December 1999. On November 7, 2000, Mr. Steen went to vote for the first time. When he arrived at his polling place, he was told that he could not vote because he had a felony conviction. Mr. Steen has never been arrested or convicted of any crime. Mr. Steen was improperly denied the right to vote.

After the mass disenfranchisement of voters that Americans witnessed on election day, it is imperative that we work to ensure extensive electoral reform regarding the manner in which Floridians and, in fact, all Americans vote. It is our moral imperative to help restore the faith of black and other minority voters in our democracy.

We need to eliminate voting practices which result in the denial of the right of all citizens to vote on account of race, color or other discriminatory classification. The remedies that we have sought through the Florida litigation model the types of changes necessary to ensure equal representation in all states within our democracy. Any legislation that contemplates reforming the way Americans vote must guarantee that all Americans have an equal opportunity to cast their ballot and have that vote counted.

As a nation we must be committed to voting practices which promote fairness and justice. The Lawyers' Committee believes that it is critical that comprehensive voting reform legislation be passed by this Congress. The irregularities in Florida are just the tip of the iceberg. Make no mistake, voters across the United States, especially minorities, language minorities, the elderly, and disabled experienced tremendous problems voting in this past election.

Voting reform legislation must protect current voting rights laws and should include a comprehensive commitment to standards and technology which are non-discriminatory and which will ensure that new voting systems and procedures do not disproportionately hinder the ability of African Americans to vote.

New voting technology is important but it alone is not the answer. There must be better training of precinct officials, those officials must be provided with the resources to ensure that all registered voters have the opportunity to vote, and all precincts must have equitable access to voter rolls. There must be more information, education and training available to first-time voters, voters who vote infrequently or who are unfamiliar with the local procedures because they have recently moved. States and localities can do a better job of making sure that voters are aware of their rights under federal and state laws, and have plenty of time to make their choices once they have a ballot. The primary goal must be to guarantee every eligible voter's right to cast a ballot free from discrimination and intimidation.

We must put the lessons of Florida to good use and keep the promise of election reform alive for people all over our nation who had trouble voting and felt that their votes did not count

on election day. The cries of those Americans must be heard, for we do not want first generation voters and future generations to be discouraged from exercising this critical constitutional right.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 01-CIV-120-GOLD

-----X
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF
COLORED PEOPLE, INC. by its FLORIDA STATE
CONFERENCE OF BRANCHES, JIMMIE PANNELL, JULIA
STONER, NATALIE CARNEGIE, ERMA J. KELLY, JOHN L.
CHEEVER, JAMES MARSHALL, LILLIE Q. ODOM, WILLIE
STEEN, WALLACE MCDONALD, JERMAINE TERRY,
LORINE WALDEN, EMERY TIMBERLAKE, VALERIE
BUFORD-WELLS, MICHELLE FLOYD, CONSUELO MARIA
GRAHAM, SHERRY EDWARDS, KANDY WELLS, JOANNA
CLARK, JANICE KELLY, PLACIDE DOSSOUS and
RONDRICK ROSE in their own right and as representatives of all
similarly situated citizens and residents of the State of Florida,

**COMPLAINT -
CLASS ACTION**

Plaintiffs,

vs.

KATHERINE HARRIS, Secretary of State of Florida; CLAY
ROBERTS, Director of the Florida Division of Elections;
DAVID C. LEAHY, Miami-Dade County Election Supervisor;
MIRIAM OLIPHANT, Broward County Election Supervisor;
JOHN STAFFORD, Duval County Election Supervisor; PAM
IORIO, Hillsborough County Election Supervisor; ION
SANTO, Leon County Election Supervisor; WILLIAM
COWLES, Orange County Election Supervisor; and DEANIE
LOWE, Volusia County Election Supervisor (all in their official
capacities); and CHOICEPOINT, INC., a Georgia corporation
d/b/a DATABASE TECHNOLOGIES INC.,

Defendants.

-----X
PRELIMINARY STATEMENT

1. This action is brought by the National Association for the Advancement of Colored People by its Florida State Conference of Branches ("NAACP") on its own behalf and on behalf of its Florida members, and by individual Black voters, whose right to vote in the general election held in the State of Florida on November 7, 2000 was unlawfully denied or abridged.

2. In 2000, the NAACP made extensive efforts to register new voters and to encourage its members to vote. As a result of the efforts of the NAACP, the NAACP National Voter Fund, and other organizations, turnout among Black voters in Florida increased significantly in the November 7, 2000 general election, compared to recent general elections. However, Black voters were confronted with a multitude of non-uniform election practices that impeded their exercise of the franchise or disenfranchised them. In particular, as a result of the practices complained of in this action, in precincts with substantial numbers of Black voters, there were a disproportionate number of ballots with no vote counted for the office of President of the United States, Black voters were wrongfully purged from official lists of eligible voters, the voter registration applications of Black voters were not processed properly, and registered voters encountered unjustified barriers to voting at their precincts. Such barriers were caused by, *inter alia*, the failure to provide a complete official list of eligible voters at each polling place, inadequate processes for verifying the registration of voters not appearing on precinct lists, and the failure to offer voters who moved within the same county the opportunity to vote by affirmation or affidavit.

3. Plaintiffs contend that these practices violate the Fourteenth Amendment of the United States Constitution; Section 2 of the Voting Rights Act of 1965, codified at 42 U.S.C. §§ 1973 *et seq.*; the Civil Rights Acts of 1957 and 1960, codified at 42 U.S.C. §§ 1971(a)(1), 1971(a)(2)(A) and 1971(a)(2)(B); 42 U.S.C. § 1983; and/or the Florida Voting Rights Act, Fla. Stat. Ann. § 104.0515.

JURISDICTION

4. This court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343 and 1367. Plaintiffs' action for declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201 and 2202; and by Rules 57 and 65 of the Federal Rules of Civil Procedure.

VENUE

5. Venue is proper pursuant to 28 U.S.C. § 1391(b) because Defendants DAVID C. LEAHY, Miami-Dade County Election Supervisor; MIRIAM OLIPHANT, Broward County Election Supervisor; and CHOICEPOINT, INC., doing business as DATABASE TECHNOLOGIES INC., reside in this district and the state Defendants may be found in this district.

PARTIES

A. The Plaintiffs

6. Plaintiff NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, INC. by its FLORIDA STATE CONFERENCE OF BRANCHES ("NAACP") is a non-profit civil rights organization with its headquarters in Baltimore, Maryland. The NAACP has more than 500,000 members nationwide. The Florida State Conference of Branches is comprised of approximately 77 NAACP youth councils, college chapters and adult branches throughout the State of Florida. The NAACP strives to advance the interests of its membership in every area, including the rights of its members and constituency to participate fully in the nomination and election of candidates for elective office. In furtherance of this purpose, the NAACP, through its Florida State Conference of Branches, conducts non-partisan voter registration and education and encourages its members to vote. The NAACP as an organization is aggrieved by Defendants' actions because they significantly impede the NAACP's ability effectively to fulfill its institutional purpose of advancing voter registration and voters' full participation in the electoral process.

7. Plaintiff NAACP also brings suit on behalf of its individual members in Florida, who have been aggrieved by Defendants' failure to comply with federal constitutional and federal and state statutory guarantees and provisions relating to voting and who would have

standing to sue in their own right. These members' individual interests in fully participating in the electoral process are germane to the NAACP's organizational purpose, and neither the claims asserted nor the relief requested herein requires the participation of the NAACP's members in order to vindicate their individual rights. A significant number of NAACP members, who are eligible voters and voted in the November 2000 election, reside in precincts and counties where a disproportionately large number of ballots were not counted in the Presidential election. NAACP members were also among those voters whose names were wrongfully purged from the voter registration lists, and a significant number of its membership were unable to vote or were impeded in voting on election day because of the unlawful practices complained of herein.

8. Individual named Plaintiffs are Black citizens of Florida who were eligible to register and vote, who were registered voters or who took timely and appropriate steps to register as voters and who sought to vote in the November 7, 2000 general election in the State of Florida but were, as a result of the practices of Defendants complained of herein, denied the opportunity to vote, denied assistance they were entitled to, or were exposed to a significantly higher risk that their votes would not be counted in the official results for the presidential election. Plaintiffs desire to vote and participate in the electoral and political processes in Florida in the future on an equal basis with other residents, and to participate in future elections in which the rudimentary requirements of equal treatment and fundamental fairness are satisfied in voting and counting ballots in Miami-Dade County and throughout the state. The named Plaintiffs bring this action on their own behalf and as representatives for the class of all similarly situated Black citizens.

9. Plaintiff JIMMIE PANNELL is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Duval County. Mr. Pannell is Black.

10. Plaintiff JULIA STONER is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Duval County. Ms. Stoner is Black.

11. Plaintiff NATALIE CARNEGIE is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Hillsborough County. Ms. Carnegie is Black.

12. Plaintiff ERMA J. KELLY is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Miami-Dade County. Ms. Kelly is Black.

13. Plaintiff JOHN L. CHEEVER is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Miami-Dade County. Mr. Cheever is Black.

14. Plaintiff JAMES MARSHALL is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Miami-Dade County. Mr. Marshall is Black.

15. Plaintiff LILLIE Q. ODOM is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Miami-Dade County. Ms. Odom is Black.

16. Plaintiff WILLIE STEEN is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Hillsborough County. Mr. Steen is Black.

17. Plaintiff WALLACE MCDONALD is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Hillsborough County. Mr. McDonald is Black.

18. Plaintiff JERMAINE TERRY is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Hillsborough County. Mr. Terry is Black.

19. Plaintiff LORINE WALDEN is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Broward County. Ms. Walden is Black.

20. Plaintiff EMERY TIMBERLAKE is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Volusia County. Mr. Timberlake is Black.

21. Plaintiff VALERIE BUFORD-WELLS is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Broward County. Ms. Buford-Wells is Black.

22. Plaintiff MICHELLE FLOYD is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Leon County. Ms. Floyd is Black.

23. Plaintiff CONSUELO MARIA GRAHAM is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Orange County. Ms. Graham is Black.

24. Plaintiff SHERRY EDWARDS is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Hillsborough County. Ms. Edwards is Black.

25. Plaintiff KANDY WELLS is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Hillsborough County. Ms. Wells is Black.

26. Plaintiff JOANNA CLARK is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Broward County. Ms. Clark is Black.

27. Plaintiff JANICE KELLY is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Duval County. Ms. Kelly is Black.

28. Plaintiff PLACIDE DOSSOUS is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Broward County. He is Black.

29. Plaintiff RONDRICK ROSE is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Hillsborough County. He is Black.

B. Defendants

30. Defendant KATHERINE HARRIS is the Secretary of State of Florida. She is sued in her official capacity in connection with actions taken under color of state law. As Secretary of State, Defendant HARRIS is the chief election officer of the State of Florida and has responsibility for general supervision and administration of the election laws. In addition, as Secretary of State she has responsibility for the Division of Elections of Florida's Department of State. She has the responsibility to obtain and maintain uniformity in the application, operation, and interpretation of the election laws, and to provide technical assistance to the supervisors of elections on voting systems. *See* Fla. Stat. Ann. § 97.012. She is also responsible for providing uniform standards for the proper and equitable implementation of the registration laws and coordinating the state's responsibilities under the National Voter Registration Act of 1993, ("NVRA"). *Id.* She also has the duty to adopt rules which establish minimum standards for hardware and software for electronic and electromechanical voting systems, and to adopt rules to achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures for voting, including write-in voting, and counting, tabulating, and recording votes by voting systems used in the State of Florida. *See* Fla. Stat. Ann. § 101.015.

31. Defendant CLAY ROBERTS is the Director of the Florida Division of Elections. He is sued in his official capacity in connection with actions taken under color of state law. The Division of Elections is responsible for adopting uniform rules for the purchase, use, and sale of voting equipment in the state. *See* Fla. Stat. Ann. § 101.294. In addition, the Director is responsible for the Bureau of Voting Systems Certification within the Division of Elections which by law is required to provide technical support to the county supervisors of elections and which is responsible for voting system standards and certification. *See* Fla. Stat. Ann. § 101.017. Defendant Roberts is also responsible for administration of the statewide central voter file and for contracting with a private entity to compare voter registration lists with other computer databases. *See* Fla. Stat. Ann. § 98.0975.

32. Defendants DAVID C. LEAHY, MIRIAM OLIPHANT, JOHN STAFFORD, PAM IORIO, ION SANCHO, WILLIAM COWLES, and DEANIE LOWE are the county

supervisors of elections for Miami-Dade, Broward, Duval, Hillsborough, Leon, Orange, and Volusia counties, respectively. They are sued in their official capacities in connection with actions taken under color of state law. Miriam Oliphant is the successor to Jane Carroll, who was supervisor of elections in Broward County during, and for 32 years before, the November 2000 election. The county supervisors of elections are the official custodians of the voter registration books in Florida and are responsible for registering voters within their respective geographical jurisdictions. *See* Fla. Stat. Ann. § 98.015. The county supervisors of elections are required to ensure that all voter registration and list maintenance procedures which they conduct are in compliance with any applicable requirements for that county under the Voting Rights Act of 1965, and that its general registration list maintenance program is uniform, non-discriminatory and in compliance with the Voting Rights Act of 1965. *See* Fla. Stat. Ann. §§ 98.015 and 98.065. In addition, the county supervisors of elections have the duty of appointing election boards for each precinct in the county, providing forms, materials and voting equipment for use on election day, and providing training for election officials. *See* Fla. Stat. Ann. § 102.012.

33. Defendant CHOICEPOINT, INC. doing business as DATABASE TECHNOLOGIES, INC. ("DBT") is a Georgia corporation with offices in the State of Florida and, pursuant to state law, at all times relevant to the events referred to herein, acted as an agent of the State of Florida in connection with the contract between it and the State that is more fully described below. *See* Fla. Stat. Ann. § 98.0975(3)(b).

CLASS ACTION ALLEGATIONS

34. The individual plaintiffs bring this class action on their own behalf and on behalf of all others similarly situated pursuant to Rule 23(a) and (b) (2) of the Federal Rules of Civil Procedure.

35. The class which plaintiffs seek to represent consists of all Black citizens of the State of Florida eligible to vote, who were registered voters or who took timely and appropriate steps to register as voters, who sought to vote in the November 7, 2000 general election, and who were denied an equal opportunity to vote and have their votes counted in that election, by the

actions, policies and practices of the Defendants, in violation of the Fourteenth Amendment of the United States Constitution, Section 2 of the Voting Rights Act of 1965, codified at 42 U.S.C. § 1973 *et seq.*, the Civil Rights Acts of 1957 and 1960, codified at 42 U.S.C. §§ 1971(a)(1), 1971(a)(2)(A) and 1971(a)(2)(B), 42 U.S.C. § 1983 and/or the Florida Voting Rights Act, Fla. Stat. Ann. § 104.0515.

36. The number of Black citizens of Florida who were denied the right to vote in the November 7, 2000, election, or whose right to vote was abridged or impeded, because of Defendants' practices complained of herein, is so numerous that joinder of all members is impracticable. On information and belief, tens of thousands of ballots in counties and precincts where substantial numbers of Black citizens reside were not counted in that election. On information and belief, thousands of Black citizens were denied registration, wrongly purged from the voter rolls, and denied the opportunity to vote in that election.

37. There are questions of law and fact common to the class. These include whether the Defendants applied qualifications or prerequisites to voting or standards, practices or procedures in a manner that denied or abridged class members' right to vote in the November 7, 2000 general election. All members of the class were denied the opportunity to vote, to have their votes recorded and counted in an equal and non-arbitrary manner, or had their right to vote impaired by one or more of the actions of the Defendants identified herein. Additional common questions of law and fact include, but are not limited to: whether the Defendants applied a method of recording, processing and tabulating ballots that resulted in the denial of Black voters' right to vote; whether the Defendants wrongfully purged registered voters from the list of eligible voters; whether the Defendants' maintenance of lists of "inactive" registered voters, separate from lists of other registered voters and not available at polling places, operated to deny or abridge registered voters' right to vote; whether disparities in equipment available at polling places with substantial numbers of Black voters resulted in the denial of Black voters' right to vote; and whether Defendants failed or refused to process and record timely applications for

voter registration, and to distribute voter registration cards, so as to deny citizens the right to vote.

38. The claims of the representative plaintiffs are typical of the claims of the class as a whole.

39. Plaintiffs can and will fairly and adequately protect the interests of the members of the class.

40. Plaintiffs are represented by counsel who are familiar with the applicable law, including attorneys of the NAACP, the Lawyers' Committee for Civil Rights Under Law, the NAACP Legal Defense and Educational Fund, People for the American Way Foundation, the American Civil Liberties Union Foundation, the Advancement Project and Williams & Associates. Counsel for plaintiffs have the resources necessary to pursue this litigation and are experienced in class action litigation and litigation involving civil rights.

41. Class certification pursuant to Federal Rules of Civil Procedure 23(a) and (b)(2) is warranted because the Defendants have acted or failed to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief with respect to the class as a whole.

FACTS

A. Arbitrary and Racially Disparate Adverse Impact of Electoral Systems

42. Defendant Secretary of State KATHERINE HARRIS is the head of the Department of State, which is required to examine all makes of electronic or electromechanical voting systems to determine if they comply with state law. Fla. Stat. Ann. § 101.5605. Defendant CLAY ROBERTS is the Director of the Florida Division of Elections and is responsible for adopting uniform rules for the purchase, use, and sale of voting equipment in the state and for voting system standards and certification. Pursuant to this authority, Defendants Harris and Roberts certified numerous voting systems for use in Florida, including several devices involving the use of "punch-card" ballots. Each county is authorized to select its voting method from the list of systems certified by Defendants Harris and Roberts.

43. On information and belief, Miami-Dade County, as well as 24 other counties in Florida, i.e., Broward, Collier, DeSoto, Dixie, Duval, Gilchrist, Glades, Hardee, Highlands, Hillsborough, Indian River, Jefferson, Lee, Madison, Marion, Martin, Nassau, Osceola, Palm Beach, Pasco, Pinellas, Sarasota, Sumter, and Wakulla use punch-card balloting machines for voting. Forty-one of Florida's sixty-seven counties use some form of electronic voting system, and one uses manually tabulated paper ballots.

44. State law requires that voting machines or systems must be capable of and must accurately register or record and count votes cast. Fla. Stat. Ann. §§ 101.28 & 101.5605.

45. The punch-card balloting systems approved by Defendants Harris and Roberts, unlike other voting systems in use in Florida, have a substantially higher rate of error in recording, processing, and counting ballots than other mechanisms and machinery for voting used in Florida.

46. In the 2000 presidential election, the percentage of ballots recorded as having no vote (non-votes) in Florida counties using a punch-card system was 3.92%, while the error rate under the optical-scan systems in use elsewhere in Florida was only 1.43%. Thus, for every 10,000 votes cast, punch-card systems result in 250 more non-votes than optical-scan systems. Siegel v. LePore, No. 00-15981, 2000 WL 1781946, *31, *32, *43 (charts C and F) (11th Cir., Dec. 6, 2000).

47. State law prohibits the use of voting systems or machines which permit the voter to cast a simultaneous ballot for two different candidates for a single office. Fla. Stat. Ann. §§ 101.28 & 101.5606.

48. Punch-card balloting systems or machines that have been approved by Defendants, unlike some other voting machines or systems in use in Florida, permit the voter to cast a simultaneous ballot for two different candidates for a single office.

49. State defendants do not have uniform standards or procedures adequate to insure that voters are made aware, prior to the completion of the ballot-casting process, that their ballots appear to contain non-votes or duplicate votes in one or more contests so that they may correct

any unintended errors before their votes are tabulated, although some of the electronic voting systems approved for use by defendants incorporate this feature.

50. Plaintiffs JIMMIE PANNELL, JULIA STONER, NATALIE CARNEGIE, ERMA J. KELLY, JOHN L. CHEEVER, JAMES MARSHALL and LILLIE Q. ODOM, lawfully registered voters and residents of counties that used punch-card systems, who voted on November 7, 2000, faced a substantially greater risk that their votes would not accurately be recorded or counted than voters who live in counties that did not use punch-card voting systems.

51. As a result of the acts and omissions of Defendants Harris and Roberts, and their own acts and omissions, election officials in counties in Florida with substantial Black populations have disproportionately selected and continue to use punch-card balloting machines. As a consequence, Plaintiffs and other Black voters are significantly less likely to have their votes counted and accurately tabulated than other voters in the state.

52. The use of punch-card voting machines or systems and procedures connected with their use have an adverse impact on Black voters' opportunity to participate in the electoral process and to have their votes counted in Florida, in violation of Section 2 of the Voting Rights Act of 1965.

53. The use of punch-card voting machines or systems and procedures connected with their use in Miami-Dade County, and in the other counties in the state which use them, deprives Plaintiffs of equal protection and due process by failing to accord equal weight to each vote and equal dignity to each voter throughout the state.

54. The next statewide election in Florida is scheduled for September, 2002, and upon information and belief, Defendants will conduct those elections in Miami-Dade and the other punch-card counties using punch-card balloting machines unless enjoined by this Court.

A. Racial Disparity in Election Administration in Miami-Dade County

55. Defendant DAVID C. LEAHY, Supervisor of Elections for Miami-Dade County, is responsible for appointing election boards for each precinct, providing forms, materials, and voting equipment for use on election day, and providing training for election officials.

56. Precincts in Miami-Dade County with substantial percentages of Black voters had a significantly higher proportion of non-votes in the Presidential election than precincts in the county that are predominantly white.

57. On information and belief, the number or proportion of voters in these predominantly Black precincts who intended not to cast votes in the Presidential election was not substantially higher than the number or proportion of voters in other precincts within Miami-Dade County who intended not to cast votes in the Presidential election.

58. On information and belief, the high numbers or proportions of non-votes for the office of President in predominantly Black precincts resulted from practices relating to voting machines or systems and balloting procedures implemented by Defendant Leahy and his staff.

59. Plaintiffs ERMA J. KELLY, JOHN L. CHEEVER, JAMES MARSHALL and LILLIE Q. ODOM are properly registered voters who reside in voting precincts in Miami-Dade County that have substantial percentages of Black voters. They each voted in the general election for the office of President of the United States on November 7, 2000 but are significantly less likely to have had their votes counted and accurately tabulated than voters in predominantly white precincts in Miami-Dade County.

60. Defendant LEAHY's non-uniform methods of administering the November 7, 2000 general election denied Black voters an equal opportunity to participate in the Presidential election and have their votes counted.

B. Wrongful Purging of Voters from Official Lists of Eligible Voters

61. Pursuant to state and federal law, Defendants Harris, Roberts and the Supervisors of Elections are charged with administering and maintaining the state's overall list maintenance programs and the state's central voter file. Both state and federal law establish the manner in which the voter registration information must be maintained and the circumstances in which individuals may be purged from the voter rolls.

62. Defendant Roberts contracted with Defendant DBT to compare information in the state's central voter file with information available in other computer databases and prepare a list of registered voters who were ineligible to vote. Upon information and belief, in the course of carrying out this contract, Defendant DBT wrongfully identified qualified voters as ineligible to vote and communicated that incorrect information to Defendants.

63. Upon information and belief, Defendants Harris, Roberts and DBT determined the matching and other criteria and sources of information for creating the lists of ineligible voters to be forwarded to county supervisors under Fla. Stat. Ann. § 98.0975. Upon information and belief, Defendants Harris, Roberts and DBT have failed to exercise appropriate diligence and care to ensure and to verify the reliability and accuracy of the list of ineligible voters that was forwarded to each county supervisor pursuant to the state list maintenance program mandated by Fla. Stat. Ann. § 98.0975.

64. Upon information and belief, prior to the November 7, 2000 general election, Defendants Harris and Roberts failed to require that all county supervisors adopt effective measures to ensure accurate purging of the names of registered voters on the lists provided by the state, and to prevent county election supervisors from purging voters without verifying the information provided in the lists. Upon information and belief, Defendants Harris and Roberts failed to ensure that county supervisors would be able to verify in a timely manner the lists of ineligible voters provided by the state, and to determine whether the information provided by the state was accurate.

65. Upon information and belief, prior to the November 7, 2000 general election, Defendant county supervisors adopted widely varying approaches to purging the names of registered voters based on the lists provided by the state. Upon information and belief, many Defendant county supervisors failed to verify at all or to verify adequately the information provided by the state, and, as a result, wrongfully purged numerous voters from their official lists of registered voters.

66. Upon information and belief, Defendants Harris and Roberts have failed to provide, require, or enforce uniform standards, and have failed to provide adequate time or resources for county supervisors to verify the lists of ineligible voters that the state forwards to the counties so as to ensure that eligible voters are not wrongly purged from the official lists of registered voters.

67. Upon information and belief, Defendants' administration of the voter roll purging process required by state and federal law had a disproportionate adverse impact on Black voters and resulted in a larger percentage of Black voters than white voters being wrongly removed from the official lists of registered voters.

68. Plaintiff WILLIE STEEN has been a properly registered voter living in Hillsborough County, Florida since he was honorably discharged from the military in 1993. He has lived at his current address since December 1999. On November 7, 2000, Mr. Steen went to vote for the first time. When he arrived at his polling place, he was told that he could not vote because he had a felony conviction. Mr. Steen has never been arrested or convicted of any crime. Mr. Steen was improperly denied the right to vote.

69. Plaintiff WALLACE MCDONALD is a properly registered voter residing in Hillsborough County, Florida. In June 2000 he received a letter from the Hillsborough County Supervisor of Elections informing him that he would be removed from the voter rolls because of a prior felony conviction. Mr. McDonald responded in writing, informing the Supervisor that he has not been convicted of a felony. He also engaged an attorney to search the court records in Hillsborough County. His attorney found no record of a felony conviction. Upon information and belief, although Mr. McDonald's attorney brought this to the attention of the Supervisor of Elections, the Supervisor nevertheless refused to reinstate Mr. McDonald as a registered voter. Mr. McDonald does not have a felony conviction and was improperly denied the right to vote.

70. Plaintiff JERMAINE TERRY is a properly registered voter living in Hillsborough County, Florida. On November 7, 2000, Mr. Terry was told by Hillsborough County voting officials at the polls that he had been purged from the voter roll, and he was not allowed to vote.

There is no valid basis upon which Mr. Terry could have been purged from the voter rolls. On information and belief, records of the Supervisor of Elections of Hillsborough County indicated simply that he was deleted from the rolls pursuant to the National Voter Registration Act. Such deletion was not proper under state or federal law. As a result of this violation, Mr. Terry was improperly denied the right to vote.

71. Plaintiff LORINE WALDEN has been a registered voter since the 1960s. About one week prior to the November 7, 2000 general election, she went in person to check the status of her registration. The employee at the Supervisor of Elections office checked something on a computer and then informed her that she was not in the system and that she would not be allowed to vote in the general election this year. There is no valid basis upon which Ms. Walden could have been purged from the voter rolls. Because the clerk specifically informed her that she could not vote in this election, Ms. Walden did not try to vote on November 7, 2000, and was effectively and improperly denied the right to vote.

72. Plaintiff EMERY TIMBERLAKE is a properly registered voter living in Volusia County. Mr. Timberlake requested an absentee ballot for the November 7, 2000 election. He never received a ballot or any other response from the Supervisor of Elections. On November 7, 2000, Mr. Timberlake went to his polling place to vote. Mr. Timberlake gave his voter registration card and driver's license to the clerk. The clerk reviewed the voter roll and told him that he was not on it and that he could not vote. No further information or assistance was offered to Mr. Timberlake at that time. There is no valid basis upon which Mr. Timberlake could have been purged from the voter rolls. On information and belief, the Supervisor of Elections removed Mr. Timberlake from the rolls in 1999 based on an alleged duplicate registration in Alabama. Mr. Timberlake has never lived in or registered to vote in Alabama. Mr. Timberlake was improperly denied the right to vote.

73. Plaintiff VALERIE BUFORD-WELLS is a properly registered voter residing in Broward County. On November 7, 2000, Ms. Buford-Wells went to her assigned precinct and presented her voter registration card and driver's license to the precinct official. The official

informed her that her name was not on the list of registered voters. The precinct official tried to call the Broward County Supervisor of Elections office but the line was busy. There is no valid basis upon which Ms. Buford-Wells could have been purged from the voter rolls. Ms. Buford-Wells was improperly denied the right to vote.

C. **Failure to Timely and Correctly Process Voter Registration Applications or Address Information**

74. Under state and federal law, Florida residents can register to vote or update a registration in person at their county Supervisor of Elections offices or at a number of other state agencies, including the Department of Highway Safety and Motor Vehicles and social services offices, or by mailing a completed application to the Supervisors of Elections office. Fla. Stat. Ann. §§ 97.053 *et seq.* Under Florida law, a valid initial voter registration application submitted by mail and bearing a clear postmark is effective as of the date of the postmark. Fla. Stat. Ann. § 97.053(4). If there is no postmark, or if the postmark is unclear, the registration is effective as of the date of receipt, unless it is received within 5 days after the closing of the books for an election, in which case the effective date of the applicant's registration is the book-closing date.

75. Upon information and belief, Defendants Harris and Roberts have failed to provide, require, or enforce uniform standards and procedures for the timely, accurate and proper processing of voter registration applications and the registration of voters. On information and belief, Defendants Election Supervisors of Hillsborough, Leon, Orange, Broward, and Duval Counties failed or refused to process many new voter registration applications that were submitted to them prior to the deadline imposed by state law.

76. Plaintiff MICHELLE FLOYD submitted a completed voter registration application to the Leon County Supervisor of Elections around September 2000. On November 7, 2000 she went to vote at her local polling site at the Florida A&M University Grand Ballroom. Ms. Floyd was listed on the precinct register, but instead of being given a ballot, she was referred to a clerk at another table. The clerk reviewed Ms. Floyd's identification, but then told her she could not vote and she would have to call someone else. Ms. Floyd was never permitted to vote

on November 7. Shortly after the election, Ms. Floyd received her voter registration card in the mail. The card listed her registration date as September 5, 2000 and her polling site as the Grand Ballroom, where she went to vote in November. Ms. Floyd was improperly denied the right to vote on November 7, 2000.

77. Plaintiff CONSUELO MARIA GRAHAM lives with her father in Orange County, Florida. In September 2000, Ms. Graham completed a voter registration application request on-line. On approximately October 3, 2000, she received a voter registration application in the mail for her signature. She signed the application and submitted it to the Orange County Supervisor of Elections. As of October 9, 2000, she had not received a voter registration card, so Ms. Graham completed another voter registration application, which was submitted to the Supervisor of Elections on or before October 10, 2000, the deadline for voter registration for the November election. On November 7, 2000, Ms. Graham went to the polling site where her father voted in order to cast her ballot. She was told that she was not on the precinct register and she was not allowed to vote. At no time did any poll worker offer to call to inquire as to her eligibility to vote. Ms. Graham was improperly denied the right to vote on November 7, 2000.

78. Plaintiff SHERRY EDWARDS is a resident of Hillsborough County, Florida. When Ms. Edwards was at the Department of Highway Safety and Motor Vehicles office in September 2000 obtaining a Florida driver's license, she registered to vote. Ms. Edwards never received a response from the Hillsborough County Supervisor of Elections regarding her voter registration application. On November 6, 2000, she contacted the Supervisor of Elections office to inquire about where to vote. She was informed that she was not a registered voter and would not be permitted to vote in the fall general election. On November 7, 2000, Ms. Edwards went to her local polling site to vote. She was not listed on the voter roll and was not allowed to vote. Ms. Edwards was improperly denied the right to vote.

79. Plaintiff KANDY WELLS completed a voter registration application in 2000 that was personally delivered by Mrs. Wells' father to the Hillsborough County Supervisor of Elections office on October 9, 2000. Mrs. Wells did not receive a voter registration card prior to

election day. She believed that her registration application had not been processed since she had not received anything from the Supervisor of Elections, and accordingly, she did not vote on November 7, 2000. On December 7, 2000, Mrs. Wells received a new voter registration card in the mail. The card indicates that it was issued on November 20, 2000. Mrs. Wells was improperly denied registration effective for the November 2000 general election.

80. Plaintiff JOANNA CLARK is a resident of Broward County, Florida who has been registered to vote in Broward County since approximately 1995. In or about October 1999, Ms. Clark moved within the County, from Pompano Beach to Fort Lauderdale. In or about April 2000, Ms. Clark completed a voter's registration change of address form at the Department of Children and Family Services Office in Broward County. Ms. Clark had not received a new voter registration card, so she submitted another change of address form approximately two weeks prior to the November 7, 2000 election. On November 7, 2000, she went to her former polling place at Pompano Beach Middle School. A precinct official informed her that she was not on the voter list. Clark indicated that she had moved to Fort Lauderdale. The official told her that she had to find somewhere in Fort Lauderdale to vote but stated that she did not know the location of her new polling place and had no way of finding out. Clark noticed her name on the voter list and pointed it out to the precinct official. The official replied that she could not allow Clark to vote because that would be considered a felony and she could have Clark arrested. Clark was improperly denied the right to vote in the November 7, 2000 general election.

81. Plaintiff JANICE KELLY is a resident of Duval County, Florida where she has been a registered voter since approximately 1994. After her initial registration in Duval County, Ms. Kelly moved to a new address within the county. When she moved, Ms. Kelly obtained a new driver's license. In 1998, Ms. Kelly went to vote at her old polling site, as she had never received information about the correct polling site based on her new address. She was permitted to vote at her old polling place and she told the poll workers there that she had moved, and provided them with her new address. Ms. Kelly never received a new voter registration card or information regarding a new polling site. On November 7, 2000, Ms. Kelly went to vote at her

old polling site. There was no voting at that site and there were no signs directing voters to another location. Ms. Kelly then drove to a fire station where she had seen voters lined up earlier in the day, and there she was told that she had to go to a church down the road to vote. Ms. Kelly rushed to the church, arriving just before 7:00 p.m., but she was told that she could not vote because the polls were closed. Ms. Kelly was improperly denied the right to vote.

82. The failure of Defendants Harris and Roberts to provide for and ensure the proper and timely processing of voter registrations and address changes and the failure of Defendants Hillsborough, Leon, Orange, Broward, and Duval county election supervisors to properly and timely process voter registration applications and voters' change of address information submitted before the close of registration for the 2000 general election violates state and federal law and denied Plaintiffs listed in paragraphs 76-81 above the right to vote.

D. Improper Procedures for Change of Residence and Unequal Access to Inactive List

83. Defendants Harris and Roberts and Defendants Election Supervisors in Broward, Hillsborough, and Miami-Dade Counties, among others, failed to comply with the National Voter Registration Act in conducting a program to verify changes of residence by voters and to remove voters ineligible to vote within their respective jurisdictions because of changes of residence. The manner in which registration rolls and eligible voter lists were maintained by these Defendants for the November 2000 general election denied or abridged the rights of Black voters within these jurisdictions to participate in the election on the same basis as other voters.

84. Upon information and belief, qualified Black voters in Florida were improperly denied the right to vote as a result of the practices complained of herein in disproportionately greater numbers than white voters, despite the fact that they were properly registered and included in the category of eligible voters according to the records of the Supervisor of Elections for their respective counties.

85. Under Defendants' address change verification and voter removal program that was in effect for the 2000 general election, certain registered voters were placed on an "inactive" list and were not included on their respective voting precincts' lists of voters on Election Day.

Although such voters remained registered voters, Defendants did not require that the names of voters on the “inactive” list be kept at the polling place and in most precincts they were not available. As a result, an “inactive” voter was only able to vote if an official at the polling place contacted the central county office, which in most cases could be done only by telephone, to confirm the elector’s eligibility to vote. Defendants failed to provide or maintain adequate telephone capacity in Supervisors’ offices. As a result, many of the telephone lines were busy for long periods of time on election day and were still busy as of 7 p.m, the poll closing time. The status of large numbers of voters who had been placed on an “inactive” list could not be verified and, consequently, these individuals were denied the right to vote.

86. Defendants’ address change verification and voter removal program, as described above, and in particular the failure to maintain information about voters on an “inactive” list at polling places, effectively removed persons from the official eligible voter list in violation of state and federal law.

87. On information and belief, in Hillsborough County, ten precincts were provided with laptop computers to enable poll workers to directly access the county files of eligible voters (including voters on an “inactive” list) without having to call a central county telephone number. On information and belief, none of the county’s majority Black precincts received a laptop computer.

88. On information and belief, in Miami-Dade County, laptop computers were available in eighteen precincts, but only one majority-Black precinct was equipped with a laptop computer on election day to enable poll workers to directly access information concerning eligible voters (including voters on an “inactive” list).

89. This unequal access to the inactive list resulted in disproportionately greater numbers of Black voters being wrongfully denied the right to vote, and effectively resulted in those voters being purged in a manner contrary to state and federal statutory provisions for voter list maintenance.

90. Plaintiff PLACIDE DOSSOUS moved from Dade to Broward County in September 1999, and in July 2000 notified the Department of Highway Safety and Motor Vehicles of his new address when he changed his drivers' license. Mr. Dossous never received a new voter registration card. On November 7, 2000, Mr. Dossous first went to his previous polling place at the Korean Presbyterian Church in Dade County in an effort to find out where he should vote. The clerk told him that he was not on the voter list. The clerk could not get through to the Supervisor of Elections because of busy phone lines and therefore provided no assistance to Mr. Dossous in determining where he should vote. Mr. Dossous returned home where he later received a telephone call from someone urging him to vote. He explained that he had already tried to vote. The caller told Mr. Dossous that she had found his name in the Sheridan Vocational School voter list, in Broward County. Mr. Dossous went to the Sheridan Vocational School, where a clerk informed him that he was not on the voter list. Mr. Dossous waited for two hours while a polling official tried to telephone the Supervisor of Elections, but never got through. Mr. Dossous finally left his name and telephone number for poll officials to call when they reached the Supervisor of Elections. He never received a call. Mr. Dossous was improperly denied the right to vote in the November 7, 2000 general election.

91. Plaintiff RONDRICK ROSE is a properly registered voter residing in Hillsborough County, Florida. In December 1999, Plaintiff Rose moved from one address to another within Hillsborough County. He changed his address with the Department of Highway Safety and Motor Vehicles and the United States Postal Service. On November 7, 2000, he went to the polling site for his new address and presented identification. Mr. Rose was not listed on the precinct register and he was instructed to complete an affirmation form, which he did, and he was then told that a poll worker would have to call to verify his eligibility to vote. On information and belief, Mr. Rose was listed in the county database as an "inactive" voter. Mr. Rose waited for approximately two hours, while a poll worker called to confirm his registration. The phone line was continuously busy and the worker was not able to get through to anyone at the Supervisor of Elections office. Mr. Rose was improperly denied the right to vote.

National Voter Registration Act

92. The National Voter Registration Act ("NVRA"), 42 U.S.C. § 1973gg *et seq.*, requires the Defendants to properly and timely process voter registration applications and changes of address, to timely notify applicants of the disposition of their applications, to carry out voter deletions and transfers to inactive status in a particular manner and to permit voters who have moved within the same political subdivision to vote even if they have not updated their registration to indicate their new address.

93. Pursuant to 42 U.S.C. § 1973gg-9(b), Plaintiffs have notified Defendant Harris of the various violations of the NVRA that have occurred and requested that they be corrected as provided by statute. A copy of this letter is attached hereto as Exhibit "A." Plaintiffs anticipate amending the Complaint to seek redress for these NVRA violations should Defendants fail or refuse to correct them.

Equitable Relief

94. Plaintiffs have no adequate remedy at law for such deprivation of their rights, privileges and immunities.

CLAIMS FOR RELIEF**COUNT I****(Fourteenth Amendment Equal Protection and Due Process Clauses)**

95. Plaintiffs hereby reallege and incorporate by reference paragraphs 1 through 94 above.

96. Defendants Harris and Roberts have maintained and administered non-uniform methods and practices of administering elections and counting ballots in violation of the Equal Protection and Due Process Clauses of the Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983.

COUNT II**(Section 2 of the Voting Rights Act of 1965)**

97. Plaintiffs hereby reallege and incorporate by reference paragraphs 1 through 94 above.

98. Defendant Leahy's methods of administering the November 7, 2000 general election denied Black voters an equal opportunity to participate in the Presidential election in violation of Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973.

99. Defendants Harris, Roberts, DBT, Leahy, Oliphant (through her predecessor Carroll), and Iorio's actions in failing to adopt and implement uniform standards of reliability and accuracy for voting machines or systems that may be selected or utilized by county supervisors of elections, and procedures connected with their use; in the purging of voters from official lists of eligible voters; and in their maintenance and administration of "inactive" lists and the unequal availability of access to those lists denied Black voters an equal opportunity to participate in the Presidential election in violation of Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973.

COUNT III
(42 U.S.C. § 1983)

100. Plaintiffs hereby reallege and incorporate by reference paragraphs 1 through 94 above.

101. All Defendants, acting under color of state law, have deprived Plaintiffs of the rights, privileges, and immunities secured to them under the Fourteenth Amendment to the United States Constitution, the National Voter Registration Act, and 42 U.S.C. § 1983 to participate in the electoral process.

COUNT IV
(Civil Rights Acts of 1957 & 1960)

102. Plaintiffs hereby reallege and incorporate by reference paragraphs 1 through 94 above.

103. All Defendants, by their actions as described in this Complaint, have, acting under color of law, applied different standards, practices or procedures in determining whether some

voters were qualified to vote than were applied to other voters within the same county who have been found by State officials to be qualified to vote and denied individuals the right to vote because of immaterial errors and omissions in registration and ballot applications, in violation of 42 U.S.C. §§ 1971(a)(2)(A) and 1971(a)(2)(B).

COUNT V
(Fla. Stat. § 104.0515)

104. Plaintiffs hereby reallege and incorporate by reference paragraphs 1 through 94 above.

105. Defendants, by their actions described in this Complaint, have applied prerequisites to voting, employed certain voting methods, and administered elections using standards, practices and procedures in a manner which results in denial or abridgement of the rights of citizens in Florida to vote on account of race or color in violation of Florida Statutes §104.0515.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court enter judgment in their favor:

(1) Certifying, for the purposes of declaratory and injunctive relief, a class of all Black citizens of the State of Florida eligible to vote, who were registered voters or who took timely and appropriate steps to register as voters, who sought to vote in the November 7, 2000 general election, and who were denied the opportunity to vote or were denied an equal opportunity to vote and have their votes counted in that election, by the actions, policies and practices of the Defendants, in violation of the Fourteenth Amendment of the United States Constitution; Section 2 of the Voting Rights Act of 1965, codified at 42 U.S.C. § 1973 *et seq.*; the Civil Rights Acts of 1957 and 1960, codified at 42 U.S.C. § 1971(a)(1), 1971(a)(2)(A) and 1971(a)(2)(B); 42 U.S.C. § 1983; and/or the Florida Voting Rights Act, Fla. Stat. Ann. § 104.0515;

(2) Declaring that Defendants' use of "punch-card" voting machines or systems, other unreliable voting systems, and procedures connected with their use; failure to process

timely voter registration applications; wrongful purge of qualified voters; failure to have complete and accurate voter lists at the polls and effective election day procedures; and failure to allow voters who have moved within the county to vote; caused the Plaintiffs and members of the Plaintiff class to be treated differently than similarly situated white voters, and denied them fundamental fairness and an equal opportunity to participate in the electoral process in the November 2000 general election, all in violation of the law as set forth in the claims for relief;

(3) Enjoining Defendants immediately to discontinue the use of prerequisites to voting, certain voting methods, and administering elections using standards, practices and procedures in a manner which results in denial or abridgement of the rights of citizens in Florida to vote on account of race or color, or in a manner that otherwise violates federal or state law, including, but not limited to, requiring Defendants to do the following:

- A. To decertify all "punch-card" voting methods and other unreliable voting methods as acceptable voting methods under Florida law;
- B. To adopt standards and implement training designed to insure that voting systems and procedures at polling places within their jurisdiction are equal, accurate and reliable, and are uniformly administered;
- C. To maintain any list of inactive voters at polling places as part of the official list of eligible voters and as accessible to precinct officials as are the active lists;
- D. To provide a mechanism for persons whose names do not appear on the list of registered voters at the polling place to vote in as timely a fashion as those whose names do appear on the list, subject to challenge if they are shown not to be qualified to vote;
- E. To accurately determine and restore to appropriate status all persons wrongfully purged based on the DBT list and all other persons purged in violation of state and federal law;

- F. To discontinue all voter purges of the voter registration rolls until the development of procedures to ensure uniform, non-discriminatory application of the law;
- G. To prohibit the removal of the name of any person from the official voter registration lists on account of death, felony conviction or adjudication of mental incapacity based on information that has not been verified and determined to be a correct match for that person;
- H. To complete all purges not later than 90 days before any election;
- I. To extend, by at least four years, the time that voters identified as those who may have moved, who did not vote in November 2000, remain on the inactive list before they are purged, to remedy the situation of inactive list voters who were denied the right to vote in the November 2000 election;
- J. To develop and implement training for all personnel involved in the administration of the electoral process to ensure compliance with this order and all laws related to the non-discriminatory operation of the political process;
- K. To provide equitable, accurate equipment, facilities and resources for the administration of the electoral process statewide, including, but not limited to, the technology to facilitate verification of voter registration in all polling sites; and,
- L. To affirmatively notify voters of their rights at polling places, by posted notice or otherwise, including their rights to assistance, to correct their ballots if they believe they have made an error, to alternative identification procedures if they do not have a photo identification and to vote even if they have changed address, including the steps to follow to assert these rights;

(4) Appointing, pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a, federal examiners in each of the Defendant counties for the next ten years;

(5) Retaining jurisdiction of this case, pursuant to Section 3(c) of the Voting Rights Act, 42 U.S.C. § 1973a;

(6) Awarding Plaintiffs their costs and disbursements associated with the filing and maintenance of this action, including an award of reasonable attorneys' fees pursuant to 42 U.S.C. §§ 19731 and 1988; and

(7) Awarding such other equitable and further relief as the Court deems just and proper.

DATED this ____ day of January, 2001.

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ATTORNEYS FOR PLAINTIFFS

Submitted by Senator Dodd for
Hearing Record

Statement of Raul Yzaguirre, President
National Council of La Raza
On
Election Reform

Recd from Kennie
@ hearing 3/14
copies to Andrew/
Kennie 3/19

I. INTRODUCTION

Chairman McConnell, Ranking Minority Member Dodd, and the Committee, on behalf of the National Council of La Raza (NCLR), thank you for holding this hearing on an issue that is very important to the Latino community. We regret not being able to testify, but appreciate the opportunity to submit a statement for the record. NCLR is the nation's largest national Latino civil rights organization, which is an "umbrella organization" for more than 250 local affiliated community-based organizations (CBOs) and about 30,000 individual associate members. In addition to providing capacity-building assistance to our affiliates and essential information to our individual associates, NCLR serves as a voice for all Hispanic subgroups in all regions of the country.

I appreciate the opportunity to appear before you today to support a thorough revision of the voting process. The right to vote is a fundamental civil right for all Americans, and NCLR supports efforts to remove barriers that inhibit Americans, especially the most vulnerable in our society, from exercising their right to vote.

All Americans are concerned about the election irregularities observed during the 2000 presidential election. Hispanic Americans share these concerns. Although they have not been as widely-publicized as the experiences of some communities, we believe that too many Latinos were unfairly denied the opportunity to vote, or had their votes discarded, through no fault of their own. Since the media spotlight was cast on Florida's electoral process, we have learned about outdated voting machines, understaffed polling places, inexperienced poll workers, and confusion that left some registered voters' names off the books. We learned about polling places that moved without adequate notice – literally in the middle of the night – leaving hundreds of voters without knowledge of where to go to cast their vote. Some duly registered voters whose names were improperly purged from the rolls were denied an affidavit, or they were not offered one, and thus were unfairly excluded from the process.

Language minority voters who requested the assistance of a bilingual volunteer or materials at the polls, as is their right in many jurisdictions, were denied such assistance. Reports indicate that in some counties, minority voters were asked for photo identification while White voters were not required to show any form of ID. Many polls in disproportionately minority precincts were closed even though voters were still in line; other polls had lines so long that some voters left the polling places without casting their vote.

Moreover, we believe that the discrepancies observed in Florida were not limited to that state. Many other states with close elections, New Mexico for example, have some jurisdictions that use voting machines and procedures similar to those found wanting in Florida. Furthermore, we have reviewed evidence of irregularities found in other states, like New York, which disproportionately affected language minority voters. We suspect that these irregularities represent the proverbial "tip of the iceberg," waiting to be uncovered in subsequent close elections unless they are addressed now.¹

II. HISPANIC AND LANGUAGE MINORITY CONCERNS WITH THE 2000 ELECTION

The right to vote is guaranteed to all U.S. citizens by the Fifteenth Amendment to the U.S. Constitution. Every voter has the right to cast an informed and effective vote. This right is extended to all people including those for whom English is not their mother tongue. Language minorities are ensured protection and full participation in the electoral process by two separate provisions of the Voting Rights Act of 1965 – Section 203 and Section 4(f)(4).² Despite these provisions of current law, there is evidence that some jurisdictions do not comply with federal language assistance provisions. The following selected examples illustrate the pervasiveness of the lack of compliance with the language assistance provisions of the Voting Rights Act.

In testimony before the U.S. Commission on Civil Rights in January 2001, the Puerto Rican Legal Defense and Education Fund reported the results of its investigation in Florida; specifically, it found that:

Many registered Latino voters who³ had voted in immediate past elections went to the polls and were told their names could not be

¹ NCLR is grateful for the assistance of the Asian American Legal Defense Education Fund (AALDEF), the Puerto Rican Legal Defense and Education Fund (PRLDEF), and the U.S. Commission on Civil Rights in preparing this testimony. NCLR is working in coalition with AALDEF, PRLDEF, the Mexican American Legal Defense and Educational Fund (MALDEF), the National Asian Pacific American Legal Consortium (NAPALC), the National Association of Latino Elected and Appointed Officials, the Asian Law Caucus, the League of United Latin American Citizens, the National Puerto Rican Coalition, the Asian Pacific American Legal Center of Southern California, and other organizations to monitor developments on election reform. The views cited herein are those only of NCLR, and may not represent the opinions of other organizations.

² In 1975 Congress added minority language provisions to the Voting Rights Act, and recognized that large numbers of American citizens who primarily spoke language other than English had been effectively excluded from participation in the electoral process. The denial of the right to vote among language minority citizens was "directly related to the unequal educational opportunities afforded them, resulting in high illiteracy and low voting participation." 42 U.S.C. Sec. 1973aa-1(a).

found on the rolls. Consequently, they were not allowed to vote, were sent home, or were required to wait many hours while election poll workers sought unsuccessfully to contact supervisors for approval to allow these voters to cast their votes. In other cases, their grievances were ignored.

Many voters not found on the rolls were not able to cast their vote. In violation of both federal and Florida laws, election poll workers often did not offer the use of the alternative method of voting the paper affirmation ballot.

Some registered Latino voters went to their usual voting poll sites only to be told that their names were not found. They were sent to other polling sites miles away, where again, their names did not appear on the rolls. Voters became frustrated, confused, and gave up --leaving without voting.

Many new Latino voters who had registered in a timely manner were not processed by government agencies. Because they did not receive their voter registration identity cards and were not given an assignment of a voting poll site, they could not vote.

Latino voters who went to the polls after work and arrived between 15 and 25 minutes before the official closing hour were told they could not vote and were turned away.

Spanish-speaking Latino voters received no bilingual assistance at most polling sites. In most precincts, the entire election staff spoke English only, and could not assist language minority voters.

At certain precincts, election staff told Latino voters to present more pieces of photo identification than non-Hispanics, even though no such legal requirement exists under Florida or federal law.³

Mr. Chairman, these kinds of problems were not just limited to Latinos in that state. Other language minorities, including Haitian Americans for whom language assistance is authorized in several jurisdictions under state law, faced serious barriers to voting. Testimony by Marleine Bastien before the NAACP on November 11, 2000, in Florida, describes in great detail the hardship experienced on Election Day by the Haitian American community. Ms. Bastien, a Haitian American community leader in South Florida, spent part of her day on Election Day at a Creole radio station receiving calls from Haitian American

³ Testimony of Mr. Jackson Chin, Puerto Rican Legal Defense and Education Fund, before the U.S. Commission on Civil Rights, January 11, 2001.

voters who called complaining about the treatment they encountered at polling places. Later, Ms. Bastien went to one of the polling places voters complained most about and witnessed the experiences of Haitian American voters; she testified that:

Lack of language assistance: There were forty-seven precincts located in areas where the majority of the population is Haitian or of Haitian descent, for whom Creole is their native language. State law mandated that ballots be printed in Creole to serve the Haitian American community living in those forty-seven precincts. At the precinct she visited, Ms. Bastien indicated that many Haitian American voters left without voting because the ballots confused them and there was no one to assist them. Even though there was a Creole-speaking volunteer willing to assist Haitian American voters, the polling place supervisor denied assistance to the voters, claiming that none were entitled to special treatment. Ms. Bastien showed the polling place supervisor a pamphlet printed by the Florida Department of Elections, which authorized a procedure to secure volunteer language assistance to people who needed it, but even then, Haitian American voters were denied assistance.

Other irregularities: Many Haitian Americans voted, or tried to vote, for the first time last year. Many were turned away from polling places because they did not have their voting card. They were asked to show identification documents even though they were registered to vote. Other Haitian American voters were unable to vote because they stepped out of line and they were told they had lost their chance to vote. Many voters were denied their right to vote because their polling place closed earlier than 7:00 p.m., the official closing time. Some Haitian American voters who were able to vote reported that poll workers collected their voting cards instead of instructing them to put the voting cards in the box. People were left to wonder whether their voting cards were discarded. Overall, Ms. Bastien described an atmosphere of intimidation, which greatly discouraged Haitian Americans from casting their vote.⁴

Nor were such irregularities limited to the State of Florida. A report presented on December 22, 2000 to the New York Board of Elections by the Asian American Legal Defense and Education Fund (AALDEF), found that the failure of the Board of Elections to prepare adequately for heavy turnout city-wide created severe problems for Asian-language voters. On November 7, 2000, AALDEF attorneys and volunteers monitored 20 polling sites in New York City; they observed:

⁴ Testimony of Ms. Marleine Bastien, before the NAACP, November 11, 2000.

- : Inaccurate translations. The Chinese translation for "Democrat" and "Republican" were reversed. Paper ballot requested by absentee voters also contained mistakes in the Chinese-language instructions.
- : Lack of Chinese interpreters. At polling sites across the city, particularly those places with dense Asian populations, there were insufficient numbers of interpreters to serve Chinese-speaking voters.
- : Chinese characters on the ballot too small to read. Obviously, the fundamental purpose of language translations is undermined when the characters are unreadable on the machine ballot.
- : Problems processing voter registration forms. Asian Americans experienced many problems in registering to vote. Many newly-naturalized citizens never received a voter confirmation postcard from the Board of Elections. Thus, they did not know the location of their polling sites. In registering to vote, a number of Asian American voters complained that they were asked to show proof of U.S. citizenship before their voter registration forms would be processed, even though White registrants were not asked for such proof.
- : Lack of bilingual materials. A number of polling sites and election districts did not have Chinese language materials or did not use them effectively, as mandated by Section 203 of the Voting Rights Act.⁵

These are clear examples of the lack of compliance of some jurisdictions with the language assistance provisions and other protections of the Voting Rights Act or state law. We believe they are no less important than the irregularities experienced by other Americans in the 2000 election, and we expect that any election reform legislation considered by the Congress should address them.

III. ELECTION REFORM

The National Council of La Raza supports prudent, bipartisan election reform legislation. NCLR has been working in concert with the League of Women Voters and a broad coalition of civil rights organizations interested in improving the electoral process. We believe that several key elements must be included in an election reform bill, which would guarantee that the voting process is accessible to all eligible citizens. These key elements are as follows:

⁵ Letter from AALDEF to Mr. Daniel DeFrancesco, New York Board of Elections, December 22, 2000.

1. Create a substantial, multiyear federal grants program to upgrade election technologies, including:
 - Improved voting equipment and associated counting mechanism
 - State-wide technologies on a uniform basis, such as computerized voter registration lists
3. Protect the Voting Rights Act and the National Voter Registration Act, while ensuring that any activities under the new legislation are consistent with these existing laws.
4. Set federally-approved "best practices" for grant-eligible technologies which include standards to ensure:
 - Accessibility and convenience for the voter, including voters with disabilities
 - Accuracy, including safeguards for maintaining voter rolls
 - Nondiscrimination, including full participation of language minorities, racial and ethnic minorities, and people with disabilities
4. Structure priority-setting criteria to ensure that jurisdictions with the most significant problems receive needed funding.

IV. RECOMMENDATIONS

Consistent with these principles, and speaking from the perspective of the Latino and language minority community, NCLR urges the enactment of legislation that:

- 1) Fully protects and compliance with existing civil rights laws, including the Voting Rights Act and the National Voter Registration Act.
- 2) Encourages the compliance and implementation of language minority assistance provisions of the Voting Rights Act.
- 3) Provides statewide multiyear federal funding for program to upgrade election technologies, including improvement of voting equipment and associated counting mechanism, and technologies on a uniform basis, such as computerized voter registration lists.
- 4) Does not impose additional, unnecessary barriers to voting.

While many of the Election Reform bills include one or more aspects of our recommendations, the only legislation that fully incorporates the concerns of

language minorities is the "Equal Protection of Voting Rights" sponsored by Sen. Dodd (D-CT), Sen. Daschle (D-SD), and Congressman Conyers (D-MI). Therefore, NCLR enthusiastically and whole-heartedly endorses this bill, and thanks Senator Dodd for his leadership in addressing the concerns of the Latino and language minority communities.

NCLR is eager to see election reform that secures the right of all Americans to vote. Election reform should be guided by current law ensuring access to language minority voters. It should not become a vehicle for adding barriers to any part of the voting process, whether it is voter education, registration, or casting a vote. We urge you to ensure that additional, unnecessary measures to "confirm" or "verify" the eligibility of voters -- which have a clear, disparate impact on Latinos or language minorities -- are not imposed.

In the past we have seen legislation that attempts to cross-reference the citizenship of registered voters and voter registration applicants against Social Security Administration and Immigration and Naturalization Services databases. Because of the well-documented inaccuracies with such databases, reliance on these systems for verification of citizenship will result in massive numbers of "false negatives," i.e., legitimate U.S. citizens whose status may not be verifiable through computer matches. These systems lack the capacity to confirm the status of significant categories of both native-born and naturalized U.S. citizens. Other proposals would authorize registrars or poll workers to challenge the identity or citizenship status of persons seeking to register or vote, based on the mere suspicion that such persons may be ineligible. Mr. Chairman and members of the Committee, such proposals would inevitably thwart the fundamental purpose of the election reform effort, which should be focused on expanding -- and not further limiting -- the ability of all Americans to participate fairly and equally in the electoral process.

I thank the Chairman, the Ranking Member, and the Committee once again for providing NCLR an opportunity to share its views on election reform.

STATEMENT OF
TODD A. COX
ASSISTANT COUNSEL
NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC.
WASHINGTON, D.C. REGIONAL OFFICE
1444 I STREET, NW, 10TH FLOOR
WASHINGTON, D.C. 20024

BEFORE THE UNITED STATES SENATE
COMMITTEE ON RULES AND ADMINISTRATION
HEARING ON ELECTION REFORM

MARCH 14, 2001

STATEMENT OF TODD A. COX

**Assistant Counsel
NAACP Legal Defense and Educational Fund, Inc.**

Hearing on Election Reform**March 14, 2001**

The Legal Defense Fund has been a pioneer in the efforts to secure and protect minority voting rights, including litigation of the cases that led to the abolition of white primaries, creation of the first majority African-American congressional and state legislative districts in several states, and elimination of barriers to black voter participation and office-holding. The Legal Defense Fund also helped to craft the Voting Rights Act of 1965, the 1982 amendments to the Voting Rights Act, and the National Voter Registration Act of 1993. The Legal Defense Fund co-chairs the Leadership Conference on Civil Rights Voting Rights Task Force and LDF is working in coalition with diverse sets of organizations to find ways in which to reform our electoral process in the wake of the 2000 Presidential election.

That election focused the nation on problems that the Legal Defense Fund has been fighting against for decades. Thousands of black voters in Florida were denied the opportunity to participate meaningfully because of practices and policies that appear to have violated the Voting Rights Act and the U.S. Constitution. Accordingly, the Legal Defense Fund joined with five other civil rights organizations, including the N.A.A.C.P., the Lawyers Committee for Civil Rights Under Law, the ACLU, People for the American Way, and the Advancement Project, to represent minority voters in *N.A.A.C.P. v. Harris* in an effort to ensure that the debacle the nation witnessed in the presidential election last November will never occur again.

However, while the spotlight has been placed on issues raised in Florida, these problems were not unique only to Florida or only to the 2000 Presidential election. Rather, the events in Florida are representative of the disenfranchisement racial and ethnic minorities have experienced across the country for many years. Thus, the problems in Florida have placed a spotlight on the larger issue of voter disenfranchisement that must be addressed at the national level. It is appropriate for Congress to play a part in resolving these critical issues.

In considering any legislative proposal to remedy the types of problems highlighted in the last election, we urge congressional members to consider legislation that:

- 1) Creates a substantial, multi-year federal grant program to upgrade and improve election technology and equipment;
- 2) Protects the Voting Rights Act and the National Voter Registration Act while ensuring that any activities under the new legislation are consistent with these laws;
- 3) Creates "best practices" for election administration and provides federal funding conditioned on standards that ensure:
 - a) uniform, non-discriminatory election administration;
 - b) accessibility and convenience for the voter, including voters with disabilities;
 - c) safeguards against purging legally registered voters; and
 - d) non-discrimination, including full participation for language, racial, and ethnic minorities and people with disabilities.

In conclusion, the right to vote is among the most cherished rights we enjoy -- a right which many have struggled and even died to secure in this country. The history of voting rights in this country has been a chronicle of the struggle to ensure that the democratic process is open and free to all. Therefore, in the end, the legacy of the 2000 Presidential election will not just be the victory of one candidate over another. The most important legacy of that election will be how all of us respond to evidence that some officials failed to respect the fundamental right of each voter to cast a ballot, and have his or her voice heard. Realizing the promise of our

democracy demands that all voters, regardless of race or ethnicity, be permitted to participate in the electoral process on an equal basis.

THE WASHINGTON POST

Christopher S. 'Kit' Bond

'Motor Voter' Out of Control

More than six months after the 2000 presidential election, Washington has as many election reform ideas as Florida had different kinds of mis-handled ballots.

While many agree on the need to replace old voting machines, there is less consensus on the need for improvements "upstream," where the real problem lies.

Missouri has learned the hard way that sloppy voter rolls caused many of our now-infamous Election Day woes. The deeper we dug into the problem, the more we learned that the National Voter Registration Act of 1993, aka "motor voter," not only caused sloppy voter rolls, it actually facilitated organized vote fraud.

The enormity of the problem in St. Louis is mind-boggling:

- The number of registered voters threatens to outnumber the voting age population. A total of 247,135 St. Louis residents, dead or alive, are registered to vote compared with the city's voting-age population of 258,532. That translates to a whopping 96 percent registration rate, the envy of even Pyongyang.

- Almost 70,000 St. Louis city residents, or 28 percent of registered voters, are on the inactive voter list. That means one in four eligible St. Louis voters cannot be located by the U.S. Postal Service.

- More than 23,000 people on St. Louis voter rolls are also registered elsewhere in Missouri. Almost 700 of these are registered twice in St. Louis. No fewer than 400 are registered once in the city and twice more elsewhere in the state. Five Missouri voters are even registered once in the city and three more times elsewhere in the state.

- Though dead for 10 years, St. Louis Alderman Albert "Red" Villa actually registered to vote this spring in the city's mayoral primary. Ritzzy Mekler, a mixed breed dog, was also registered to vote in St. Louis. And a recent canvass found that hundreds of city voters apparently are mailing in absentee ballots from abandoned buildings and vacant lots.

- We saw an Election Day lawsuit filed to keep the city polls open late because the plaintiff feared he wouldn't get a chance to vote. Then it turned out the plaintiff was a dead man. When he was replaced by a live

U.S. congressional staffer with a similar name, the suit proceeded anyway, even though the staffer had already voted earlier that day. Despite the case's obvious insanity, the judge ordered the polls kept open late, in violation of Missouri law.

You may call me cruel and even discriminatory, but I will persist in trying to limit the voting franchise to human beings who are not dead yet. Clearly the city of St. Louis, like many others, desperately needs help to improve the accuracy of its voter rolls. But current federal law actually complicates those efforts.

For example, the motor voter act blocks states from requiring notarization or another form of authentication on mail-in registration cards. Why do we so easily require photo ID to board a plane or to buy beer and cigarettes while leaving the ballot box so undefended?

In addition, once registered, it is almost impossible to get off the lists. Current federal law blocks a person's removal from the voter rolls unless he or she is (1) reported dead, (2) requests removal or (3) the U.S. Postal Service returns certified election board mailings to the person as "undeliverable" and the person fails to vote in two successive federal elections.

Congress passed the motor voter bill with the best intentions. Unfortunately, we now have proof that the very mechanism used to boost voter participation has turned the nation's voter rolls into a tangled mess.

In Missouri we saw how motor voter flaws paralyzed the St. Louis election board. The board's inability to maintain its lists invited brazen vote fraud, now the subject of a federal criminal probe.

In Florida, St. Louis and elsewhere, sloppy maintenance of voter rolls fueled charges of minority disenfranchisement.

The legacy of the motor voter bill is that it boosted voter participation while reducing the integrity of and confidence in our elections. The best election "reform" Congress can undertake this year is to go back and fix the flaws in the law we passed seven years ago.

The writer is a Republican senator from Missouri.



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

624 Ninth Street, N.W.
Washington, D.C. 20425

**SUPPLEMENTAL STATEMENT ON USCCR PROCEDURES PERTAINING TO THE
FLORIDA VOTING RIGHTS REPORT**

**THE HONORABLE MARY FRANCES BERRY, CHAIRPERSON
U.S. COMMISSION ON CIVIL RIGHTS
BEFORE THE COMMITTEE ON RULES AND ADMINISTRATION
UNITED STATES SENATE**

June 27, 2001

While the Florida voting rights report was being prepared by the civil service staff at the Commission, two of the eight commissioners, Abigail Thernstrom and Russell Redenbaugh, tried to draw attention away from the documented disenfranchisement that occurred in Florida by claiming the process by which the report was produced was unfair. Because all Americans deeply believe in fairness, and I do not want these two Commissioners' mis-statements to detract from the serious issues before us of electoral reform, I will use this supplemental statement to outline the process the Commission actually followed in preparing this report. I have a set of documents validating the factual accuracy of my statements that I request be included in the record. These include portions of transcripts from the Commission's public meetings where the relevant discussions took place.

In November 2000, the Commission's Staff Director sent staff attorneys to Florida for a preliminary investigation of complaints of possible voting rights violations, as we are required to do under our statute. Thereafter, the Commission voted unanimously to hold such hearings that our General Counsel's office concluded was necessary in Florida. We also asked the staff to set aside other work and to expedite internal management steps to conclude the hearings and prepare a report in six months. Commission reports usually take over a year to complete.

The Commission traveled to Tallahassee, specifically, to hear testimony and collect documents from state government witnesses. Governor Jeb Bush's staff had great difficulty accommodating our need for him to testify by insisting that his duties would permit only a brief period of time with us. Given the shortness of available time, our staff agreed to simply place his opening statement in the record and to proceed with questions. Ordinarily, we subpoena witnesses for as much time as needed. However, in this instance, the Commission accommodated what we were told was Governor Bush's schedule.

As the Florida legislature opened its session in March, the Governor and other officials did not appear to place a high priority on addressing the issues we had investigated. I shared with the Commission a sketch of my preliminary assessment of what was needed, based on the hearings and discussions with staff. The Commission endorsed the statement officially. We hoped the statement would encourage action during the eight-week legislative session. When the Florida

legislature passed positive legislation during the session, we officially commended the Governor and the legislature for their actions.

As the staff prepared the report, Commissioners were reminded of the longstanding staff consultation process available to them. Through the Staff Director, any of the eight Commissioners may arrange meetings or discussions, at their convenience, with the staff about any Commission work. In response to a question from Commissioner Thernstrom during the April Commission meeting, the process was outlined again as a reminder. Despite their misstatements reported as fact in the media, neither Commissioner Redenbaugh nor Commissioner Thernstrom ever asked the Staff Director for a meeting or discussion with the staff about this report. A letter we sent to media asking for a correction of their misstatements is included in the documents and I have asked to have it included in the record.

Further, no memos from Commissioners Redenbaugh and Thernstrom to the Staff Director have gone unanswered. All Commissioners know that the Staff Director will answer routine queries orally or through his special assistant contacting a Commissioner's assistant since we are part time Commissioners and do not physically work at the Commission's headquarters. Also, that if Commissioners have any problems with receiving a satisfactory response they should tell the Staff Director and the Chair and I will see to it that they receive answers. I have received no such complaints from either of them. This subject was discussed at a Commission meeting on April 13, 2001 and I have included copies of the transcript of that portion of the meeting in the documents I have asked be included in the record.

When the staff finished drafting the report they followed the Commission's internal management procedures that suggest the completion of affected agency review within about four weeks time. This means that the staff sends portions of the document that relate specifically to officials who testified to them for review, collects their responses and incorporates them in the report, all within that time frame. The staff uses discretion to determine how much time an affected agency should be given to respond. In this case, given the volume and their own internal deadlines, the staff gave each recipient thirteen days to respond.

Contrary to the complaints by Commissioners Thernstrom and Redenbaugh about the short time allotted to review the report, every Commissioner knew when they would receive the report and they all received it at the same time. At the Commission meeting on April 13th Commissioner Redenbaugh asked when the report would be given to Commissioners for review before a vote on whether to approve it. He was told the date, and no Commissioner objected. The Commissioners received the report on the date promised.

The staff selected our consultant, Professor Lichtman because he is a scholar and an acknowledged expert in voting rights statistical analysis. At the June Commission meeting, he volunteered that he has done consulting for any number of persons Republicans and Democrats, including Mayor Guiliani of New York. I also understand that he did some consulting for former Vice President Al Gore about six years ago. Dr. Lichtman's report is available to the public with citations to all of the materials he used in his research.

No Commissioner, including Thernstrom and Redenbaugh was denied any materials by the Commission staff. Despite this fact, they have filed Freedom of Information requests to receive materials they either already had or were given within twenty-four hours of a request to the Staff Director. The only apparent purpose was to convey to the public the impression that they as Commissioners could not obtain any information otherwise. Commissioners Thernstrom and Redenbaugh asked for Professor Lichtman's report and within 24 hours they had it. They asked for disks and were given the one disk in existence. They were not given a disk of data prepared by Dr. Lichtman because he used publicly available data from the Internet that anyone can retrieve. There was no disk. The sources are cited with specificity in Dr. Lichtman's report, which they have. The documents I am submitting for inclusion in the record include correspondence between Commissioners Thernstrom and Redenbaugh, and the General Counsel and staff on these matters. The appearance of their mis-statements in the media prompted the Staff Director to respond in writing.

Someone leaked the report, apparently, at the same time that it was sent to the Commissioners. This has happened before when hearings attracted great public attention. When it happened with the New York police report the Staff Director convened a task force and asked the Inspector General for guidance but no guaranteed leak-proofing suggestions were forthcoming. We will take up the matter again at our upcoming July meeting. However, the problem may force us to simply release drafts to the public as the staff completes writing sections.



UNITED STATES
COMMISSION ON
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624 Ninth Street, N.W.
Washington, D.C. 20425

*A special assistant in OSD responded orally to Comm. Redenbaugh's & Thernstrom's
special assistants.*
May 22, 2001

MEMORANDUM FOR MARY FRANCES BERRY
Chairperson

FROM: RUSSELL G. REDENBAUGH *Russell*
ABIGAIL THERNSTROM
Commissioners *[Signature]*

SUBJECT: Florida Elections Report

As you have indicated over the past several months, the Commission is scheduled to consider the report on the Florida elections probe at our meeting on June 8. Considering that the meeting is only a little more than two weeks away, and Commissioners have yet to receive even the draft document, we are concerned that there will be an effort to rush this through without the careful deliberation it deserves.

It is imperative that Commissioners be given adequate opportunity to review the Commission's findings and recommendations before the June 8 discussion and the vote on the final report. It is also imperative that the Office of General Counsel comply with the requirements for legal sufficiency and affected agency review, as set forth in the agency's regulations, before the Commission takes up this report.

The purpose of this memo is to ask that you inform Commissioners, as soon as possible, when exactly we can expect to receive the Florida report. Also, please advise as to the status of the "affected agency review" (i.e., when the report was sent out for review by affected individuals and when the review was/will be completed).

We look forward to your response.

CC: Vice Chair Cruz Reynoso
Commissioner Christopher Edley, Jr.
Commissioner Yvonne Lee
Commissioner Elsie M. Meeks
Commissioner Victoria Wilson



UNITED STATES
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624 Ninth Street, N.W.
Washington, D.C. 20425

The Chair's special assistant orally responded to Comm. Redenbaugh's special

May 24, 2001

MEMORANDUM FOR MARY FRANCES BERRY
Chairperson

FROM: RUSSELL G. REDENBAUGH *Russell*
Commissioner

SUBJECT: Lack of Response to Requests on Florida Report

I object to the lack of response to Commissioners' recent requests for information regarding the report on alleged "voting improprieties" in Florida, which the Commission is to consider on June 8.

First, I have not received a response to my May 21 memorandum to the Staff Director in which I requested a copy of a letter you were reported to have sent to Senators Graham and Nelson relaying "preliminary" conclusions on behalf of this Commission.

Second, the memorandum that I co-signed with Commissioner Thornstrom on May 22 asked for your response to two specific questions: (1) When exactly will Commissioners be given a copy of the Florida report? (2) What is the status of the required "affected agency review." I have received no response, other than a rather vague message from the Staff Director's Office that Commissioners should refer to the April transcript.

That kind of response does not meet the standards we have at the Commission. Also, with respect to the Florida report, the timelines have been anything but clear and consistent: For example, at the March 9 meeting, instead of taking up a "status report" on the project (as the agenda announced), Commissioners were asked to approve, without any advance notice at all, your own statement of "preliminary" findings on Florida. At that same meeting, you advised Commissioners that "in April we expect to have the draft of the voting rights in Florida, the actual draft, in front of us." In April, however, Commissioners were given only an "Outline of the Final Document." It is now May 24, and there is not yet a draft report for us to review in preparation for a major vote that is supposed to occur in just two weeks time.

Unless we have the report by tomorrow, May 25, there is really no way Commissioners will be prepared to discuss it on June 8; and, of course, unless the affected agency review is completed by the time of our meeting, we cannot discuss it.

CC: Hon. Les Jin, Staff Director

698

FROM : THERNSTROM

PHONE NO. : 781 860 9045

Jun. 11 2001 11:21AM



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

U.S. CIVIL RIGHTS
624 Ninth Street, N.W.
Washington, D.C. 20425
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June 11, 2001

Mr. Les Jin, Staff Director
U.S. Commission on Civil Rights
624 9th Street NW
Washington, D.C. 20001

Dear Les:

This is a formal request that you provide me with a copy of all the statistical data that the Commission staff provided to Professor Alan Lichtman in order that he could prepare his analysis of the Florida voting in the 2000 election.

I am also requesting a copy of the actual report that Prof. Lichtman gave you, as well as any additional data that he utilized in writing his report.

I intend to review this material in writing my dissent. Since the deadline for submitting dissents to the Commission's report is fast approaching, you will appreciate my need for this information immediately.

I will be in Washington on Tuesday, in part on Commission business, and will be glad to pick it up from you personally. Otherwise, Kristina Arriaga can get it from you and bring it to me. I am sure that you recall that the Chair specifically invited Commissioners to contact you directly.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Abigail Thernstrom', with a stylized flourish at the end.

Abigail Thernstrom
Commissioner



UNITED STATES
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CIVIL RIGHTS

624 Ninth Street, N.W.
Washington, D.C. 20425

URGENT -- TIME SENSITIVE

June 11, 2001

MEMORANDUM FOR LES JIN

Staff Director

FROM:

CHARLIE PONTICELLI *CP*
Special Assistant to Commissioner Redenbaugh

SUBJECT:

Request for Materials on Florida Report

As you know, Commissioner Redenbaugh will be submitting a written dissent to the Florida report. In order to assist his efforts, he has asked me to request the following materials:

- (1) A copy of Chairperson Berry's statement which was read to the Commission at the June 8 meeting.
- (2) A copy of the entire June 8, 2001, transcript. (We understand that the Commission usually receives an "unverified" transcript within 3 to 5 days following a Commission meeting. Commissioner Redenbaugh is asking that he be given a copy of the transcript at the earliest possible opportunity so that he, too, may have the chance to (a) "verify" remarks and (b) refer to the transcript as he writes his dissent. Since separate statements are due on June 29, it will not be possible to wait the usual 30 days for the transcript.)
- (3) A copy of Professor Allan Lichtman's analysis which was submitted and discussed on June 8.
- (4) A copy of the amended report on the Florida election. (We realize it may take the staff a few days to incorporate all of the changes made on Friday.)

We would appreciate your assistance in providing these documents. Should you consider that any or some of these materials might require a Freedom of Information Act (FOIA) request, please let me know so that I may assist Commissioner Redenbaugh in making that request.



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

624 Ninth Street, N.W.
Washington, D.C. 20425

June 12, 2001

MEMORANDUM FOR RUSSELL G. REDENBAUGH
Commissioner

FROM:

EDWARD A. HAILES, JR. *E. Hailes, Jr.*
General Counsel

SUBJECT:

Request for Documents on Florida Documents

This is in response to your request for documents relating to the Commission-approved report on "Voting Irregularities in Florida During the 2000 Presidential Election." You submitted a similar request to the Staff Director on yesterday, June 11, 2001. The Office of Staff Director had already made arrangements to collect and deliver materials to you, before I received your request.

Today, the Staff Director forwarded to your Special Assistant, Charlie Ponticelli, an unverified copy of the entire June 8, 2001 meeting transcript and Professor Lichtman's report. A revised report, which will include the editorial changes that are submitted by Commissioners on or before Friday, July 15, 2001, will be forwarded to Ms. Ponticelli by the middle of next week.

You are also requesting "copies of all communications between the Commission and affected agencies and individuals pursuant to the "affected agency" review, as well as copies of all responses and documents received thereto." I will gladly compile this information and arrange for it to be delivered to you through Ms. Ponticelli.

I will be out of the office tomorrow, June 13, 2001, but I will leave directions for these materials to be sent to Ms. Ponticelli.

If you have a need for further assistance, please let me know.

Attachments

FROM : Law Offices of A.M. Ponticelli: PHONE NO. : 4102357116

Jun. 12 2001 02:16PM PJ

UNITED STATES
COMMISSION ON
CIVIL RIGHTS624 Ninth Street, N.W.
Washington, D.C. 20425

June 12, 2001

VIA FAX - URGENT AND TIME-SENSITIVEMEMORANDUM FOR EDWARD HAILES
General CounselFROM: RUSSELL G. REDENBAUGH *Russell*
Commissioner

SUBJECT: FOIA Request for Documents on Florida Report

Yesterday, my Special Assistant delivered a memorandum to the Staff Director, on my behalf, requesting the following documents to assist me in writing my dissent to the Commission's report on alleged voting improprieties in Florida.

The documents I have requested include:

- (1) A copy of Professor Allan Lichtman's analysis submitted to and discussed by the Commission on June 8, 2001.
- (2) A copy of the transcript of the Commission's meeting of June 8, 2001.
- (3) A copy of the Commission's report on the Florida election, as amended by the Commission on June 8, 2001.

Since I have received no response to my request, and in light of the fact that the Commission has set a deadline of June 29, 2001, for submitting dissents, I hereby request that these documents be provided to me, as soon as possible, under the Freedom of Information Act. Under the Freedom of Information Act, I also ask that you provide me with copies of all communications between the Commission and affected agencies and individuals pursuant to the "affected agency" review, as well as copies of all responses and documents received thereto.

I look forward to receiving these documents at the earliest possible opportunity.

702



OFFICE OF STAFF DIRECTOR

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D.C. 20425

June 12, 2001

MEMORANDUM FOR COMMISSIONER ABIGAIL THERNSTROM

FROM:

LES JIN 
Staff Director

SUBJECT:

Request for Materials on the Florida Report

In response to your June 11, 2001 letter to me, please find enclosed a copy of Professor Lichtman's report. Due to today's absence of an OGC staff member, I was not able to obtain the statistical data that the staff provided to Professor Lichtman. However, I will give this information to you tomorrow once the staffer returns to the office. The additional data that Professor Lichtman utilized in preparing his report are subsumed or referenced within his document.

Please feel free to contact me if you have any questions.

Thank you.

Enclosures

703



OFFICE OF STAFF DIRECTOR

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D.C. 20425

June 12, 2001

MEMORANDUM FOR CHARLIE PONTICELLI

Special Assistant to Commissioner Redenbaugh

FROM: LES JIN 
Staff Director

SUBJECT: Request for Materials on the Florida Report

In response to your June 11, 2001 letter to me, please find enclosed an unverified copy of the entire June 8, 2001 meeting transcript and Professor Lichtman's report. The statement made by Chairperson Berry is included in the enclosed transcript.

As you know, the deadline for Commissioners to submit editorial changes to the report is Friday, June 15th. The Office of the General Counsel will complete the revisions shortly after that date. Thus, you will receive the amended report by the middle of next week.

Please feel free to contact me if you have any questions.

Thank you.

Enclosures



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

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624 Ninth Street, N.W.
Washington, D.C. 20425

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June 18, 2001

TO: Edward Hailes, General Counsel
From: Commissioner Abigail Thernstrom
Re: Disk containing data for Professor Lichtman's study

Pursuant to the Freedom of Information Act, please give my assistant a copy of the disk (or disks) containing any data Professor Allan Jay Lichtman used to issue his report on the Florida election.

I understand from Kim Alton that OGC does not have the data in disk form. However, I am sure you will agree that the report Professor Lichtman issued was funded by taxpayers. Therefore, the disks he used should also be available to the Commission and its Commissioners.

Also, please provide me with a copy of the contract (or contracts) issued to hire Professor Lichtman or any other statistician, social scientist or professional associated with the Florida report.

Please provide this information as soon as possible.



UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D.C. 20425

OFFICE OF STAFF DIRECTOR

Via Facsimile and Federal Express

June 19, 2001

MEMORANDUM FOR COMMISSIONER ABIGAIL THERNSTROM

FROM:

LES JIN 
Staff Director

SUBJECT:

Request for Materials on the Florida Report

I recently learned of your Freedom of Information Act request for data pertaining to the Florida Report. Frankly, the request surprised me. I do recognize that time is of the essence as it pertains to this matter and that is why the staff responded by providing you with the materials you requested in your June 11th correspondence as soon as each item was available. We spoke with your special assistant shortly after we received your correspondence and provided the materials on June 12th and 13th, explaining why the materials provided on the 13th were not available on the 12th. Given our responsiveness to your requests, I do not believe that the use of the FOIA is necessary or appropriate. The staff has worked diligently and in a cooperative spirit in order to respond to your requests in a timely manner, and will continue to do so. In the future, if you think there is a problem that is not being handled properly, I urge you to contact me to discuss the problem as an alternative to filing a FOIA request.

As for the information that is the subject of your FOIA request, see the attached letter from General Counsel Edward Hailes. It is fully responsive to your concerns.

Additionally, I understand that late last week your special assistant called Professor Lichtman and that earlier today you sent him an e-mail requesting the data you are seeking. As the Commission rules provide, and I believe Chairperson Berry has stated in a recent meeting, Commission requests of that nature must be directed to the Staff Director. Commission staff, including someone in Professor Lichtman's status, works for the Commission and under the direction and supervision of the Staff Director or one of his managers. As the Staff Director, I serve as the liaison between the staff and the Commissioners. As I am sure you can understand, circumventing this organizational structure can only create confusion and disorder within the agency.

Please feel free to contact me if you have any questions.

cc: Mary Frances Berry, Chairperson
Cruz Reynoso, Vice Chairperson
Christopher Edley, Jr., Commissioner
Yvonne Y. Lee, Commissioner
Elsie M. Meeks, Commissioner
Russell G. Redenbaugh, Commissioner
Victoria Wilson, Commissioner



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

624 Ninth Street, N.W.
Washington, D.C. 20425

Via Facsimile and Federal Express

June 19, 2001

MEMORANDUM FOR ABIGAIL THERNSTROM
Commissioner

THROUGH:

LES R. JIN *LRJ*
Staff Director

FROM:

EDWARD A. HAILES, JR. *E. Hailes, Jr.*
General Counsel

SUBJECT:

Data for Lichtman Study

This is in response to your request for "a copy of the disk (or disks) containing any data Professor Allan Jay Lichtman used to issue his report on the Florida election." I understand that you were correctly informed that the Office of General Counsel does not possess any disk or disks that you are seeking. In attempting to comply with your request, however, the staff promptly contacted Professor Lichtman to ask him to release to us any disk or disks containing the data he used to issue his report. Professor Lichtman told us that he did not and does not possess any disk or disks containing data that he used to prepare his report. The publicly available sources of data that he used to prepare his analysis are cited throughout the report, a copy of which was provided to you.

Apart from your specific request, there is a copy of a disk containing data that was used by former Commission staff member, Dr. Rebecca Kraus, who briefly provided assistance to our office until she left the agency for a promotional opportunity. The disk was forwarded to Professor Lichtman. He possesses it, but he did not use these data to issue his report. I will make that disk available to your special assistant, if you believe that it would be helpful.

You have also requested, "a copy of the contract (or contracts) issued to hire Professor Lichtman or any other statistician, social scientist or professional associated with the Florida report." Professor Lichtman was not hired under a contract for his services. He was appointed to serve in an expert position under agency personnel procedures. He is an intermittent appointee of the Commission. No other statistician, social scientist or other professional has been hired to assist with this project. Thus, there are no existing contracts to provide pursuant to your request.

Memorandum for Commissioner Abigail Thernstrom
RE: Data for Lichtman Study
June 19, 2001
page two

If you need further information or assistance, please direct your inquiries to the staff director.

cc: Mary Frances Berry, *Chairperson*
Cruz Reynoso, *Vice Chairperson*
Christopher Edley, Jr.
Yvonne Y. Lee
Elsie M. Meeks
Russell G. Redenbaugh
Victoria Wilson



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

624 Ninth Street, N.W.
Washington, D.C. 20425

Via Facsimile and Mail

June 20, 2001

MEMORANDUM FOR ABIGAIL THERNSTROM
Commissioner

THROUGH: LES R. JIN
Staff Director

FROM: EDWARD A. HAILES, JR.
General Counsel

SUBJECT: Data for Lichtman Study

This afternoon the OGC staff received from Professor Lichtman a copy of a disk containing data that was used by former Commission staff member, Dr. Rebecca Kraus. I was told that Professor Lichtman informed you that he would pass this disk back to the staff with the understanding that it would be passed on to you. Just so it is abundantly clear, I am reminding you that Professor Lichtman informed the staff that he did not use these machine-readable data to issue his report. Pursuant to your request, however, the disk will be delivered to your special assistant.

Please let me know if you need further information or assistance.

cc: Mary Frances Berry, *Chairperson*
Cruz Reynoso, *Vice Chairperson*
Christopher Edley, Jr.
Yvonne Y. Lee
Elsie M. Meeks
Russell G. Redenbaugh
Victoria Wilson



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

624 Ninth Street, N.W.
Washington, D.C. 20425

June 20, 2001

MEMORANDUM FOR LES JIN
Staff Director

From: Abigail Thernstrom *A. Thernstrom/ka*

Subject: Data for Lichtman Study

Via facsimile

I was puzzled by your memorandum dated June 19, 2001 in which you state "circumventing this organizational structure can only create confusion and disorder within the agency." You "urge me to contact you." However, my attempts to direct questions to you so far have proved most unsuccessful. (See several memoranda in April regarding access to materials). And, you have refused to respond in writing to my memoranda.

Guidelines about the relationship between individual Commissioners and the staff director are indeed confusing. Last time I asked for information you said my questions addressed policy issues and that I had to ask the Chair. Furthermore, you indicated you work for the Commission as a body and not for individual Commissioners.

Take the Lichtman information request, for example. As of June 8th, you and your staff knew that I would be writing a dissent and should have understood that I would need the machine-readable data that Lichtman used to run his correlations and regressions. That is what I have requested. But instead of immediately providing it, you provided, after a five-day delay some woefully incomplete information in the form of hard copy only that it took my assistant 10 minutes to photocopy. Bear in mind I have 20 days to respond to a study it took the entire Commission six months and almost a hundred employees to draft.

As of last Friday, June 15th at 1:30 pm the information I received from your office was that OGC did not have the disks with the machine-readable data Lichtman used. My special assistant called your office and asked if she needed to file a FOIA request in order to get the essential disks that contain taxpayer-funded information that should be in the public domain. Ms. Alton replied that to invoke FOIA was not appropriate since I merely wanted the same information I had requested in a different format. My assistant

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explained that it was not a matter of convenience, the disk was simply what was needed to run the statistical analysis. She waited all weekend and all day Monday for the courtesy of a reply to her requests for the disks and Professor Lichtman's contact information. At 3pm on Tuesday June 19th she again called your office. Kim Alton said again that OGC did not have a disk.

Responsible scholars routinely make all their data available in the machine-readable form in which they used it. I have never before encountered any resistance to the request I am now making. In addition, under FOIA I am entitled to receive the information in any form that I ask for. As you may know FOIA was amended in 1996 to include a section requiring agencies to provide information "in any form or format requested," including in electronic form.

I agree with you that it is sad that I had to file a FOIA request to receive the information I needed and am entitled to have. But, I waited 10 days before doing so.

As to my contacting Professor Lichtman, any Commissioner should be free to contact any expert in their field for professional consultation. This is particularly true in the case of an academic who serves "in an expert position under agency personnel procedures" and who will be reviewing the statistical analysis in my dissent.

Dr. Lichtman sent me an e-mail saying he was forwarding the disks to you today. My assistant will pick them up this afternoon.

Cc: Mary Frances Berry, Chairperson
Cruz Reynoso, Vice Chairperson
Christopher Edley, Jr., Commissioner
Yvonne Y. Lee, Commissioner
Elsie M. Meeks, Commissioner
Russell G. Redenbaugh, Commissioner
Victoria Wilson, Commissioner




OFFICE OF STAFF DIRECTOR

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D.C. 20425

June 21, 2001

MEMORANDUM FOR COMMISSIONER RUSSELL G. REDENBAUGH

FROM: LES JIN 
Staff Director

SUBJECT: Request for Materials on the Florida Report

Per your request, please find enclosed a copy of the revised Florida Report.

With this submission, I believe that I have provided you with all of the materials requested in your June 11, 2001 letter to me.

Please feel free to contact me if you have any questions.

Thank you.

Enclosures

cc: Mary Frances Berry, Chairperson
Cruz Reynoso, Vice Chairperson
Christopher Edley, Jr., Commissioner
Yvonne Y. Lee, Commissioner
Elsie M. Meeks, Commissioner
Abigail Thernstrom, Commissioner
Victoria Wilson, Commissioner




OFFICE OF STAFF DIRECTOR

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D.C. 20425

June 22, 2001

MEMORANDUM FOR CHAIRPERSON
VICE CHAIRPERSON
COMMISSIONERS

FROM:

LES JIN 
Staff Director

SUBJECT:

Voting Irregularities in Florida During the 2000
Presidential Election Report

Attached is a revised copy of the "Voting Irregularities in Florida During the 2000 Presidential Election" report, which includes affected agency review changes and changes that were requested by the Commissioners, both during the June 8 meeting and written comments submitted by June 15.

U.S. COMMISSION ON CIVIL RIGHTS

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MEETING

+ + + + +

Friday, June 8, 2001

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The Commission convened in Room 540 at 624
Ninth Street, Northwest, Washington, D.C. at 9:30 a.m.,
Mary Frances Berry, Chairperson, presiding.

PRESENT:

MARY FRANCES BERRY, Chairperson

CRUZ REYNOSO, Vice Chairperson

CHRISTOPHER EDLEY, JR., Commissioner

YVONNE Y. LEE, Commissioner

ELSIE M. MEEKS, Commissioner

RUSSELL G. REDENBAUGH, Commissioner

ABIGAIL THERNSTROM, Commissioner

VICTORIA WILSON, Commissioner

LESLIE R. JIN, Staff Director

DR. ALLAN J. LICHTMAN, Consultant

U.S. COMMISSION ON CIVIL RIGHTS

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COMMISSION MEETING

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FRIDAY

APRIL 13, 2001

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WASHINGTON, D.C.

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The Commission convened at 9:28 a.m., in
Hearing Room 540 at 624 9th Street, N.W., Washington,
D.C., Mary Frances Berry, Chairperson, presiding.

PRESENT

MARY FRANCES BERRY	Chairperson
CRUZ REYNOSO	Vice Chairperson
YVONNE Y. LEE	Commissioner
ELSIE M. MEEKS	Commissioner
RUSSELL G. REDENBAUGH	Commissioner
ABIGAIL THERNSTROM	Commissioner
VICTORIA WILSON	Commissioner
LESLIE R. JIN	Staff Director

1 What that means is that the Staff Director is not responsible for
2 responding to any individual Commissioner's direction. The Staff Director will of
3 course respond to factual inquiries on matters made by Commissioners, but the Staff
4 Director does not routinely -- does not take direction from any individual Commissioner.
5 The Staff Director does take direction from the Commission as a whole. That is the
6 way the statute is set up. That is the way the regulations are set up.

7 The Staff Director does have a close working relationship with the
8 Chair of the Commission, whoever that is, primarily because the Chair of the
9 Commission is responsible for setting the Commission's agenda each month, and has to
10 determine whether or not, for example, materials are ready to go on the agenda, the
11 status of issues, and whether or not things should go forward. The Commissioners have
12 expressed orally in meetings and in other ways that that is the way they understand the
13 relationship to go.

14 The Staff Director has not routinely responded in writing to
15 inquiries from individual Commissioners. First of all, it would be too time consuming.
16 Secondly, the Staff Director does not report to any individual Commissioner, but to the
17 Commission as a whole.

18 Although the Staff Director or his assistant will respond orally to
19 anything anybody wants to know -- any Commissioner wants to know, to their special
20 assistant if they have one. If not, to them if they prefer.

21 The other thing to point out, there have been some issues raised
22 about when Commissioners and their assistants can review materials concerning things
23 like hearings and other matters. The way we operate on that is that if any individual
24 Commissioner wishes to be briefed on any matter having to do with the ongoing work of
25 the Commission, whether it is a hearing or a project that the staff is working on, that

1 Commissioner can ask the Staff Director to meet with them and any relevant staff to go
2 over whatever it is they are interested in discussing. If there are materials or documents
3 they should identify what they are, and then specifically they can sit down.

4 As far as individual, the hearing is concerned, this is true of the ones
5 we had in Florida as well as other hearings, the Commissioners will of course be given
6 the report before they obviously vote on it. If Commissioners at that time wish to sit
7 down with the Staff Director and any relevant staff to go over some aspect of that, they
8 can do that before they vote even, if they wish to do so.

9 They can, for example, say the staff has concluded hypothetically
10 that no election took place in Florida. I made that up hypothetically. On some page in
11 the report, and it has five footnotes from documents, and they would like to meet with
12 the staff, see the five documents, reach their own conclusion about whether or not they
13 agree or disagree. So all of that is the way in which the responses will have been going
14 forward in the past and the way we expect them to go forward in the future.

15 If a Commissioner is not satisfied with the Staff Director, they
16 should inform me, and then I will put a consideration of that relationship on the agenda
17 for the Commissioners to discuss at a meeting in an Executive Session so that we can
18 sort it all out. So you should let me know if you have some problem operating with the
19 Staff Director. I would hope that you don't, and that we would move on.

20 The other point that I wanted to make, the last one about
21 relationships within the agency, is the relationships, the protocol between
22 Commissioners and assistants. Assistants to Commissioners are not Commissioners,
23 which means that assistants to Commissioners, and in that I include my own assistant,
24 do not tell Commissioners what to do or comment to Commissioners on Commissioners'
25 behavior or make criticisms of Commissioners or intervene when Commissioners are

1 trying to have a discussion among themselves about an issue.

2 It is not up to a Special Assistant to a Commissioner to pass
3 judgement to a Commissioner on what a Commissioner is doing or not doing. If they
4 wish to do that, they should tell their principal, and their Commissioner can have some
5 conversation with the other Commissioner. That's just a matter of protocol.

6 Now does anyone want to say anything about any of that before we
7 ask if there are other questions about a Staff Director's report? Yes, Commissioner
8 Redenbaugh?

9 COMMISSIONER REDENBAUGH: Yes. I am glad that you
10 raised this issue because I am unclear, and I think your producing that is something
11 useful for me. The whole question of the relationship between getting factual things
12 from the Staff Director. I understand the point you are making about policy being set by
13 the Commission.

14 For example, not this Staff Director, but a prior Staff Director
15 wouldn't give me a copy of a transcript of a hearing. I had to use the Freedom of
16 Information Act request, a FOIA, to get it. Clearly that was inappropriate for that prior
17 Staff Director to decline that request.

18 That is the kind of request we can and should be able to make to a
19 Staff Director?

20 CHAIRPERSON BERRY: Well I would assume, yes. I would
21 assume you could make that request. It would be a matter of timing.

22 In the case of transcripts, what the Commission has done in the past,
23 and I don't know the facts concerning that previous -- I don't remember the facts, if I
24 ever knew them. I probably did. Is that we used to say that Commissioners didn't get
25 the transcript until it was verified. Isn't that right?

1 MR. HAILES: I certainly would like to commend the staff working
2 with me and our staff director. We have met on a weekly basis. Everybody is very
3 excited about the project and working very hard to complete it on time.

4 CHAIRPERSON BERRY: Commissioner Redenbaugh?

5 COMMISSIONER REDENBAUGH: When do you think you will
6 have a draft for us then? Do you have some sense of that now?

7 MR. HAILES: For the Commission, it will be no later than the first
8 week of June.

9 CHAIRPERSON BERRY: When is our meeting in June? Does
10 anybody know?

11 COMMISSIONER THERNSTROM: Madam Chair, one question
12 you did not answer which was the scope of the record being relied upon.

13 MR. HAILES: Sure. It will be the testimony presented before the
14 Commissioners and the documents that we have subpoenaed. Additionally, research
15 that has been performed by the staff and the statistical analysis that will be performed.

16 COMMISSIONER THERNSTROM: Will we have access to the
17 documents upon which the research was based or at least citations or you know
18 something to have some sense of – because that was a huge topic in there, potentially,
19 you could, you know.

20 MR. HAILES: At the appropriate time, access will be given, yes.

21 CHAIRPERSON BERRY: Do you want me to repeat the same
22 thing I said earlier about access?

23 If Commissioners wish to see specific documents in connection with
24 their review, they can tell the Staff Director and the documents will be cited in the
25 footnotes that you get. You may see the documents. You can come to the Staff

1 Director, have your assistants, sit down, look at these documents, and do anything you
2 wish at that point. Because at that point, the staff will be finished, ostensibly. So the
3 answer to the question is yes. If you identify what it is you wish to see or what topics
4 you wish to discuss.

5 COMMISSIONER THERNSTROM: My question was really, and I
6 guess it's answered by the footnotes, will there be built into the report very clear
7 indications of the material external to the hearings and to the subpoenaed materials that
8 have been relied upon.

9 CHAIRPERSON BERRY: Absolutely. Remind people in terms of
10 the process to remind you when the report is finished, it is given to affected agencies
11 and people. That means the Governor of Florida, the Secretary of State, all of those
12 people, supervisors, all of them will review the document before you are asked to
13 approve it. They will be given opportunity to submit whatever they would like to
14 submit.

15 In fact, isn't it right, General Counsel, they can if they want to have
16 something attached to the back of the report or whatever, they can do that?

17 MR. HAILES: With the approval of the Commission.

18 CHAIRPERSON BERRY: Right. So it's not that we are going to
19 approve the document without anybody ever seeing it or anything like that. So I just
20 want to be clear that everybody understands that.

21 Yes, Commissioner Redenbaugh?

22 COMMISSIONER REDENBAUGH: The June meeting, I just
23 didn't hear what you said the date is.

24 CHAIRPERSON BERRY: When is the June meeting?

25 STAFF DIRECTOR JIN: June 8th, I think.

1 CHAIRPERSON BERRY: So, Eddie, we have to have that at some
2 point before then if we are going to act on it at the June meeting.

3 MR. HAILES: Yes.

4 CHAIRPERSON BERRY: Okay. Enough time.

5 All right. Does anybody have any other questions about this
6 subject? Okay, thank you very much, General Counsel.

7 MR. HAILES: Very welcome.

8 **V. State Advisory Committee Report**

9 CHAIRPERSON BERRY: The next item is a State Advisory
10 Committee report, Reconciliation at a Crossroads: The Implications of Rice v. Cayetano
11 on Programs for Native Hawaiians.

12 Rice v. Cayetano was a forum held by the Hawaii SAC to which
13 Commissioner Lee, Commissioner Meeks, and the Vice Chair Reynoso went. You
14 attended that. As a result of that, this advisory committee came up with this report.

15 It has been before us before. I forgot what we did with it last time. I
16 guess we sent it to have -- oh, what happened the last time?

17 STAFF DIRECTOR JIN: Yes, Madam Chair. A couple things
18 happened. One was I think the main thing that happened was that it was decided that the
19 report could be fortified to include the 1998 forum to have more discussion of 1998
20 forum that the Hawaii SAC had. I think the couple of SAC members working with the
21 rest of the members in Hawaii wanted a little more opportunity to put their own
22 handprints on the document. That has been happening since the last time, which they
23 have done.

24 Madam Chair, if I just may for a quick second, particularly
25 congratulate I think several people: including Charles Maxwell, the Chair of the Hawaii

**REPORT ON THE RACIAL IMPACT OF THE REJECTION OF BALLOTS
CAST IN THE 2000 PRESIDENTIAL ELECTION IN THE STATE OF FLORIDA**

**Allan J. Lichtman, Professor
Department of History
American University
Washington, DC 20016**

June 2001

INTRODUCTION

I have been asked by the United States Commission on Civil Rights to consider whether the rejection of ballots as invalid for the 2000 presidential election in Florida had a disparate impact on the votes cast by African-Americans. The analysis will consider all unrecorded ballots as well as the subsets of undervotes (ballots not recorded for the lack of a recognized vote) and overvotes (ballots not recorded for including more than one recognized vote).¹ The focus of analysis will be on whether African-Americans are more likely than other voters to have had their ballots invalidated, although some consideration will be given to reforms of the electoral process in Florida and elsewhere.

BACKGROUND

I am a Professor of History at American University in Washington, D.C. Formerly I served as Department Chair and Associate Dean of the College of Arts and Sciences at American University. I received my BA in History from Brandeis University in 1967 and my PhD in History from Harvard University in 1973, with a specialty in the mathematical analysis of historical data. My areas of expertise include political history, voting analysis, and historical and quantitative methodology. A copy of my curriculum vitae, which accurately sets forth my professional qualifications and experience, is attached as an appendix of this report.

My scholarship includes numerous works on quantitative methodology in social science. These works includes articles in such academic journals as Political Methodology, Journal of Interdisciplinary History, and Social Science History. I have also coauthored with Dr. Laura Langbein Ecological Inference, a standard text on the subject of inferring the behavior of population groups from data collected for political units. In addition, I have published articles on

¹ For counties that separately record undervotes and overvotes, the total number of unrecorded votes is slightly higher than the sum of undervotes and overvotes, given that not every rejected ballot was separately classified as an

the application of social science analysis to the Voting Rights Act. This work includes articles in such journals as Journal of Law and Politics, La Raza, Evaluation Review, and National Law Journal.

My scholarship also includes the use of quantitative and qualitative techniques to perform political and historical studies of voting, published in such academic journals as The Proceedings of the National Academy of Sciences, The American Historical Review, and The Journal of Social History. Quantitative and historical analysis also grounds my books, Prejudice and the Old Politics: The Presidential Election of 1928, The Thirteen Keys to the Presidency (co-authored with Ken DeCell), and The Keys to the White House.

I have worked as a consultant or expert witness for both plaintiffs and defendants in more than sixty federal voting rights cases. This experience includes numerous cases in the state of Florida. I have been admitted as an expert witness in voting rights, political history, political systems, statistical methodology, quantitative analysis of voting, and socioeconomic analysis, among other matters, in more than fifty federal court cases in which I have presented oral or written testimony.

METHODOLOGY AND DATA

The database for this study includes county level election returns for the presidential election of 2000 in Florida as well as the numbers by county of ballots cast, undervotes, overvotes, and unrecorded votes. Fifty-four of Florida's 67 counties, encompassing 94 percent of ballots cast in 2000, separately recorded undervotes and overvotes. The database includes identification of voting system by county and county level statistics for a variety of social, economic, and political variables, including race and education. The racial data includes the

undervote or overvote.

percentage of black registered voters, based on year 2000 voter registration data. The database also included precinct-level data for three of Florida's largest counties: Miami-Dade, Duval, and Palm Beach Counties. This precinct-level data included unrecorded votes, undervotes, overvotes, and voter registration by race, based on 1998 voter registration data.²

Florida election returns, voting registration data, and county-by-county lists of voting technology were obtained from the website of the Florida Division of Elections, Department of State. Information on unrecorded votes was obtained from the Governor of Florida's select task force report on the Florida 2000 presidential election, *Revitalizing Democracy in Florida*, at pages 31-32.³

My study utilized simple descriptive statistics as well as the standard statistical method of regression analysis⁴ to compare the racial composition of counties and precincts to rates of overall unrecorded votes, overvotes, and undervotes. I also utilized ecological regression⁵ that provides

² The county-level correlation between the percentage of black registrants for 1998 and 2000 is a near-perfect .996.

³ Additional data on undervotes and overvotes was obtained from the data tables in *Siegel v. Lepore*, 234 F.3d 1163 (11th Cir. 2000) and from CNN and Associated Press, ><http://www.cnn.com/ELECTION/2000/resources/ballot1.htm><. Precinct level data for Duval County, Miami-Dade, and Palm Beach County was obtained from the website of Bruce E. Hansen, Stockwell Professor of Economic, University of Wisconsin-Madison: ><http://www.ssc.wisc.edu/~bhansen/vote/data.html><. Socio-economic data was obtained from the 1990 Census (such data is not yet available for 2000). Estimates of literacy rates were obtained from CASAS, "Synthetic Estimates Of Literacy, Percent Level 1, National Adult Literacy Survey."

⁴ Regression analysis measures the influence of one or more variables, known as independent variables, on another variable known as the dependent variable. When used for political units such as the counties of Florida or the precinct within a county, regression analysis measures the extent to which the value of the dependent variable changes from one unit to another in response to changes in the values of the independent variables. For a brief description of regression analysis see: Hubert M. Blalock, *Social Statistics* (New York: McGraw Hill, 1979), pp. 382-386.

⁵ Ecological regression is a standard method for inferring the behavior of population groups from data collected for aggregate units such as counties or precincts. It produces such estimates by comparing the racial composition of the various voting precincts to the division of the vote among competing candidates in each precinct. The ecological regression procedure for analyzing the behavior of population groups is set forth in my book, *Ecological Inference* (Sage Series on Quantitative Applications in Social Science, 1978: with Laura Irwin Langbein). Other references on the use of ecological regression for voting analysis include: Richard Engstrom, "Quantitative Evidence in Vote Dilution Litigation: Political Participation and Polarized Voting," *Urban Lawyer* (1985); Bernard Grofman and Chandler Davidson, eds., *Controversies in Minority Voting: The Voting Rights Act in Perspective* (Cambridge: Cambridge University Press, 1992); Bernard Grofman, Lisa Handley, and Richard G. Niemi, *Minority Representation and the Quest for Voting Equality* (Cambridge: Cambridge University Press, 1992); Allan J. Lichtman, "Passing the Test: Ecological Regression in the Garza Case and Beyond," *Evaluation Review* (1991).

estimates from county-level and precinct-level of the percentage of blacks and non-blacks casting unrecorded votes as well as either overvotes or undervotes.⁶ Ecological regression procedures were recognized as appropriate for voter analysis by the United States Supreme Court in Thornburg v. Gingles, 478 U.S. 30 (1986).

For the precinct-level data of Palm Beach, Miami-Dade, and Duval Counties, rates of ballot rejection for blacks and non-blacks can also be examined through a technique termed extreme case analysis⁷ which examines the rejection rates of ballots including both undervotes and overvotes in precincts that are heavily comprised of registrants that are either black or non-black. The extreme case results will not correspond exactly with the results of ecological regression analysis, because they apply only to some of the precincts within a jurisdiction and those precincts examined include at least some members of other ethnic groups. While not identical, it should closely mirror the pattern of results found in ecological regression. Extreme case analysis involves no inferential procedures. It simply tallies the actual rejection rates, as well as rates of overvoting and undervoting in the precincts chosen for the analysis. The technique of extreme case analysis is applied to precinct-level data in Miami-Dade, Palm Beach and Duval counties with a cutoff rate of precincts that are either 90 percent or more black in their voter registration or 90 percent or more non-black in their voter registration.

⁶ Non-blacks include non-Hispanic whites as well as Hispanics and members of other races. Because of limitations in the data available, no attempt was made to distinguish the components of the non-black group, although racial disparities might be even greater if blacks and non-Hispanic whites were isolated for analysis.

⁷ Extreme case analysis is designed to isolate nearly homogeneous groups of blacks and non-blacks by examining precincts within each county studied that are either 90 percent or more black or 90 percent or more non-black in their voter registration. The analysis simply reports the actual ballot rejection rates in these precincts that are comprised overwhelmingly of black or non-black registrants. Extreme case analysis provides a very useful check on the results of ecological regression analysis. It provides a comparison of actual rejection rates in nearly homogeneous black and non-black precincts with estimated rejection rates for blacks and non-blacks in all precincts derived from ecological regression analysis. For descriptions of extreme case analysis and its relation to ecological regression analysis see: Lichtman, "Passing the Test," and Grofman, et. al., Minority Representation, pp. 85-90.

SUMMARY OF DETAILED STATISTICAL ANALYSIS

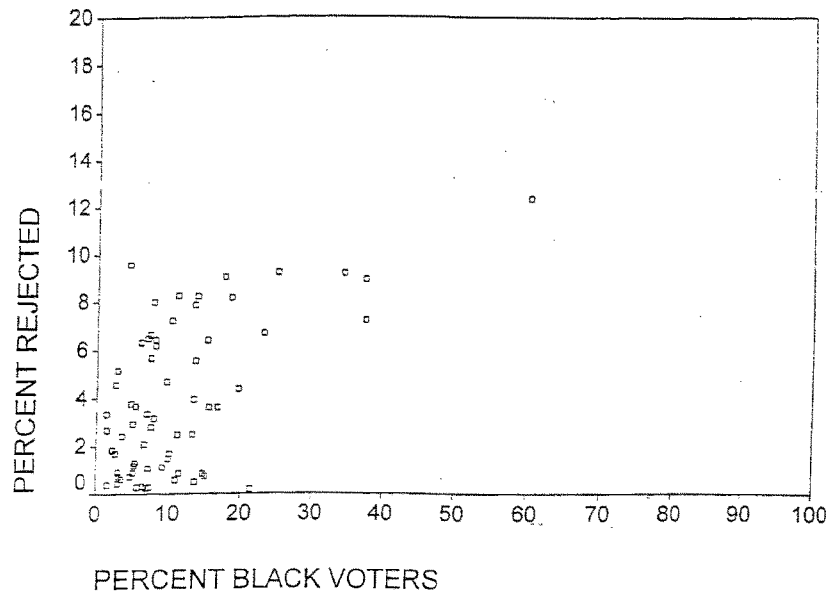
In Florida's 2000 election, about 2.9 percent of all ballots cast (about 180,000 ballots out of slightly more than 6 million ballots cast) did not contain a vote that could be counted as a vote for president. The great majority of these invalid ballots were recorded as either overvotes or undervotes, with overvotes outnumbering undervotes by nearly two to one.⁸ Counties that separately recorded overvotes and undervotes rejected about 107,000 ballots as overvotes and about 63,000 ballots as undervotes.

An analysis of the entire state using county-level data and at Miami-Dade, Duval, and Palm Beach counties using precinct-level data, demonstrates that blacks were far more likely than non-blacks to have their ballots rejected in the 2000 Florida presidential election. As illustrated by Graph 1, statewide there is a strong positive correlation between the percentage of black registrants in a county and the percentage of rejected ballots. The linear correlation (termed R) between the percent of ballots rejected in the presidential election and the percentage of blacks among voters⁹ is .50, with a squared correlation of (R^2) of .25. This means that when we look at the variation in the ballot rejection rates for each county in Florida, about one quarter of that variation can be explained solely by knowing the percentage of blacks who were registered to vote in that county. This relationship is statistically significant at levels far beyond the conventional standards used in social science.¹⁰

⁸ As noted above, not every rejected ballot in Florida was separately classified as either an undervote or an overvote.

⁹ The analysis first used ecological regression to estimate the turnout rates of blacks and non-blacks (which were nearly equal) and then applied those rates to estimate the percentage of blacks among voters. The number of registrants or of ballots cast weights all correlation and regression analyses. Statistical significance results, however, are based on the number of counties included in each analysis.

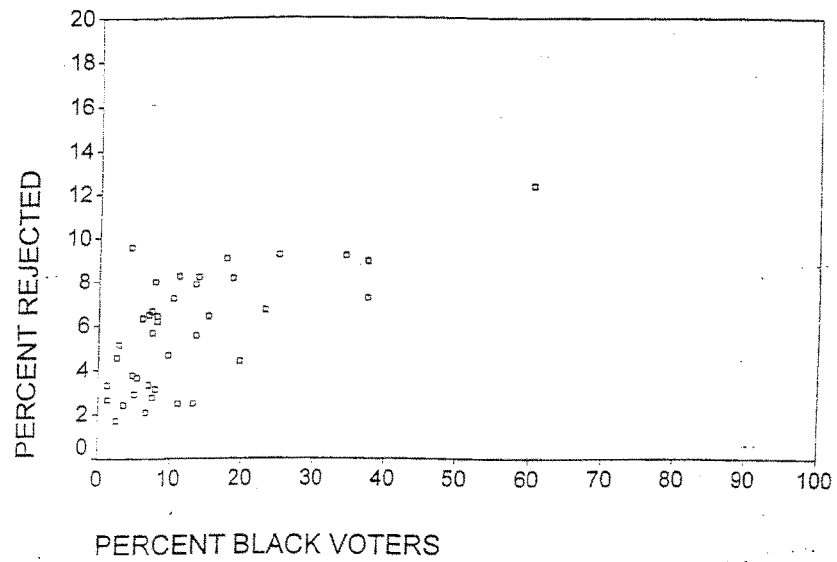
¹⁰ These correlations are consistent with those found by the Commission in its own preliminary analysis of rejected ballots.

GRAPH 1: RACE AND BALLOT REJECTION RATE**FLORIDA COUNTIES, 2000 PRESIDENTIAL ELECTION**

One obvious question is presented by this data – is there some other factor which better explains this disparity in ballot rejection rates? In short the answer is no. This statistically significant county-level correlation between race and ballot rejection rates cannot be attributed to the educational level of African-Americans in Florida. A multiple regression analysis that controlled for the percentage of high school graduates and the percentage of adults in the lowest literacy category failed to diminish the relationship between race and ballot rejection or to reduce the statistical significance of the relationship.

In very small part, the county-level relationship between race and rates of ballot rejection results from the greater propensity of black registered voters to live in counties with technologies that produce the greatest rates of rejected ballots. About 70 percent of black registrants resided in counties using technology with the highest ballot rejection rates – punch cards and optical scanning systems recorded centrally - compared to 64 percent of non-black registrants. Counties using punch card or optical scanning methods recorded centrally rejected about 4 percent of all ballots cast, compared to about .8 percent for counties using optical scanning methods recorded by precinct. The vast majority of rejected votes were recorded in counties using punch cards or optical scanning methods recorded centrally. Such counties included about 162,000 out of 180,000 unrecorded votes in Florida's 2000 presidential election. These counties that used punch cards or optical scanning technology recorded centrally included 65 percent of all ballots cast in Florida's 2000 presidential election, but 90 percent of rejected ballots.

As illustrated in Graph 2, within the group of counties using punch card or optical scanning technology recorded centrally – that account for about 90 percent of rejected ballots -- there is a strong, statistically significant relationship between race and rejected ballots. This

GRAPH 2: RACE AND BALLOT REJECTION RATES**PUNCH CARD AND OPTICAL SCANNING CENTRALLY RECORDED COUNTIES****FLORIDA 2000 PRESIDENTIAL ELECTION**

correlation between race and ballot rejection is even stronger than the correlation between race and ballot rejection for all counties. The linear correlation between the percent of ballots rejected in the presidential election and the percentage of blacks among voters within the counties using punch cards or optical scanning machinery recorded centrally is .56, with a squared correlation of (R^2) of .31, a stronger relationship between race and rejected ballots than for the state overall. This means that nearly one-third of the county-by-county variation in the rates of rejected ballots within this group of counties can be predicted solely by knowing the racial composition of the counties. This relationship is statistically significant at levels far beyond the conventional standards used in social science.¹¹

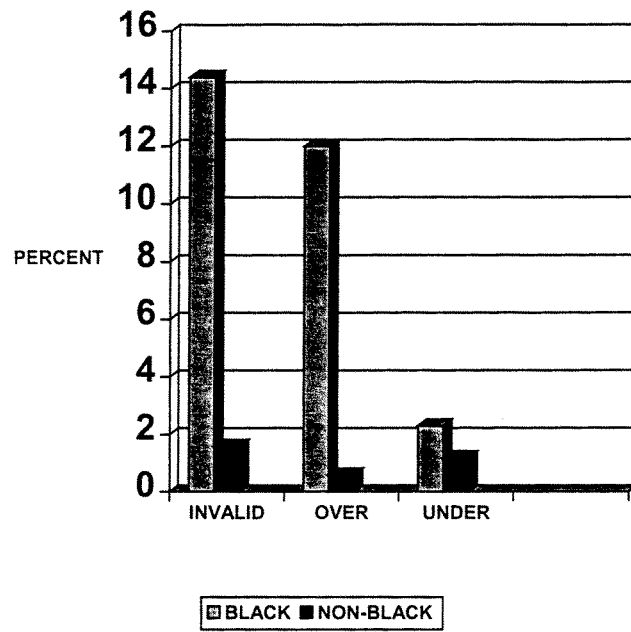
When the counties using the technology with the lowest ballot rejection rates are examined, the correlation between race and ballot spoilage is substantially reduced but not eliminated. There remains a statistically significant relation between race and the rate at which ballots are spoiled even when the best technology is used. The linear correlation between the percent of ballots rejected in the presidential election and the percentage of blacks among registrants within the counties using optical scanning machinery recorded by precinct is .28, with a squared correlation of (R^2) of .08, a weaker relationship between race and rejected ballots than for the state overall. This means that slightly less than one-tenth of the county-by-county variation in the rates of rejected ballots within this group of counties can be predicted solely by knowing the racial composition of the counties. The relationship is not statistically significant at conventional standards used in social science. In summary, while the type of technology used accounts for some of the relationship between race and the rate at which ballots are rejected, there

¹¹ As for the state overall, within this group of counties that account for most rejected ballots, a multiple regression analysis that controlled for the percentage of high school graduates and the percentage of adults in the lowest literacy category failed to diminish the relationship between race and ballot rejection or to reduce the statistical significance of the relationship.

remains a statistically significant relationship even after education is considered and the type of voting system is taken into account.

These correlations, however suggestive of a strong relationship between race and ballot rejection, pertain only to county-level relationships. They do not by themselves provide estimates of the ballot rejection rates for the black and non-black voters included for the entire state. The ecological regression technique does provide these estimates for the state overall. As reported in Chart 1 and Table 1, the results are striking. For the entire state, the rates of rejection for votes cast by blacks was an estimated 14.4 percent, compared to a rate of 1.6 percent for votes cast by non-blacks. The greatest discrepancy is for overvotes, with an estimated rejection rate of 12.0

**CHART 1: REJECTION RATES BY RACE,
STATE OF FLORIDA**



**TABLE 1: ECOLOGICAL REGRESSION ESTIMATES OF
STATEWIDE BALLOT REJECTION RATES BY RACE**

INVALID VOTES*			OVERVOTES		UNDERVOTES		
PUNCH CARD & CENTRAL RECORD COUNTIES	BLACK VOTERS	NON- BLACK VOTERS	BLACK VOTERS	NON- BLACK VOTERS	BLACK VOTERS	NON- BLACK VOTERS	
	19.4%	2.2%	17.1%	.8%	2.4%	1.3%	
PRECINCT RECORD COUNTIES	BLACK VOTERS	NON- BLACK VOTERS	BLACK VOTERS	NON- BLACK VOTERS	BLACK VOTERS	NON- BLACK VOTERS	
	5.2%	.4%	2.5%	.2%	2.1%	.1%	
ALL COUNTIES COMBINED	BLACK VOTERS	NON- BLACK VOTERS	BLACK VOTERS	NON- BLACK VOTERS	BLACK VOTERS	NON- BLACK VOTERS	
	14.4%	1.6	12.0%	.6%	2.3%	1.2%	
* THE RATES FOR REJECTED VOTES ARE NOT EXACTLY EQUAL TO THE SUM OF RATES FOR OVERVOTES AND UNDERVOTES. SOME INVALID VOTES WERE NOT SUBDIVIDED INTO EITHER OF THESE TWO CATEGORIES. ALSO, 13 COUNTIES DO NOT SEPARATELY RECORD OVERVOTES AND UNDERVOTES. ESTIMATES FOR ALL COUNTIES ARE WEIGHTED MEANS OF ESTIMATES FOR PUNCH CARD AND CENTRAL RECORD AND FOR PRECINCT RECORD COUNTIES.							

percent for votes cast by blacks, compared to an estimated rate of 0.6% for votes cast by non-blacks.

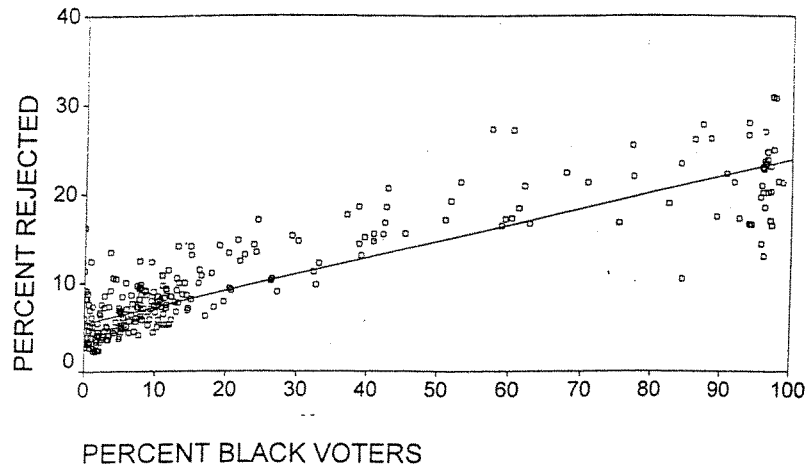
In order to further refine this analysis, precinct data for Duval, Miami-Dade, and Palm Beach counties were examined. These counties have substantial numbers of African-Americans.¹² Duval County, with a 9.2 ballot rejection rate had a much higher rate than the 4.0 average for punch card counties, whereas Miami-Dade County had a rejection rate of 4.4 percent – close to the punch card average. Palm Beach County had an intermediate rejection rate of 6.4 percent. Taken together, the three counties included about 85,000 rejected ballots, about 47 percent of the statewide total. Precinct-by-precinct rejection rates and black voter percentages for each county are reported in Graphs 3, 4, and 5. For these graphs, with large numbers of precincts, the graphs also include the linear regression line to portray with clarity the relationship within the graph between race and ballot rejection.

As indicated by the results of ecological regression analysis reported in Charts 2, 3 and 4, and Table 2, the estimated rejected rates derived from precinct-level data in these three counties confirm the findings derived from county-level data for the entire state. In Duval, Miami-Dade, and Palm Beach counties, as in the state overall, blacks were far more likely than non-blacks to experience the rejection of ballots cast in Florida's 2000 presidential election.

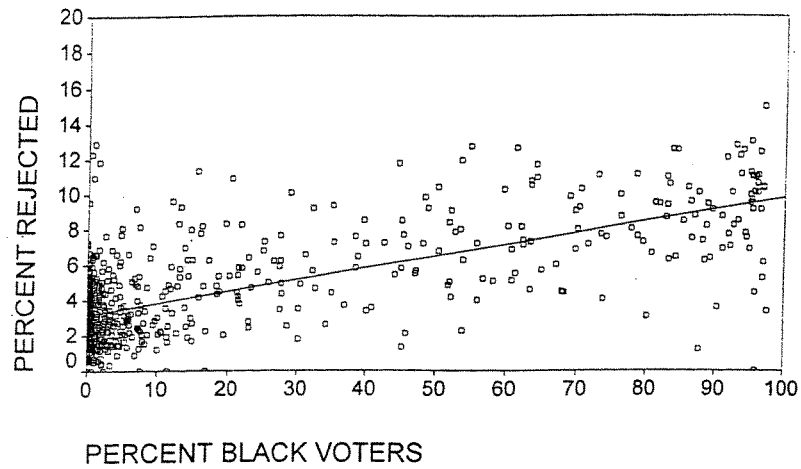
For Duval County, as demonstrated in Chart 2, the overall rate of rejection for votes cast by blacks was an estimated 23.6 percent, compared to a rate of 5.5 percent for votes cast by non-blacks. The greatest discrepancy is for overvotes, with an estimated rejection rate of 20.8 percent

¹² Duval County is 24 percent African American. Dade County is 20 percent African-American, and Palm Beach County is 9 percent African-American based upon 2000 voter registration. All three used punch card technology.

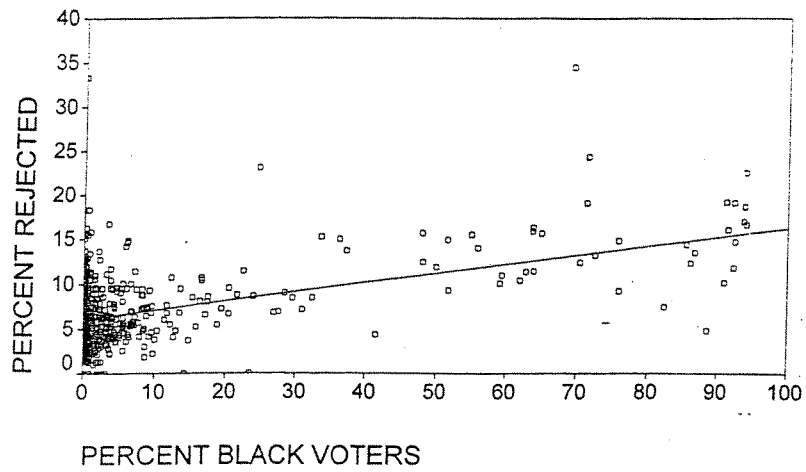
GRAPH 3: RACE AND BALLOT REJECTION RATES
DUVALL COUNTY, FLORIDA
2000 PRESIDENTIAL ELECTION



Cases weighted by BALLOTS .

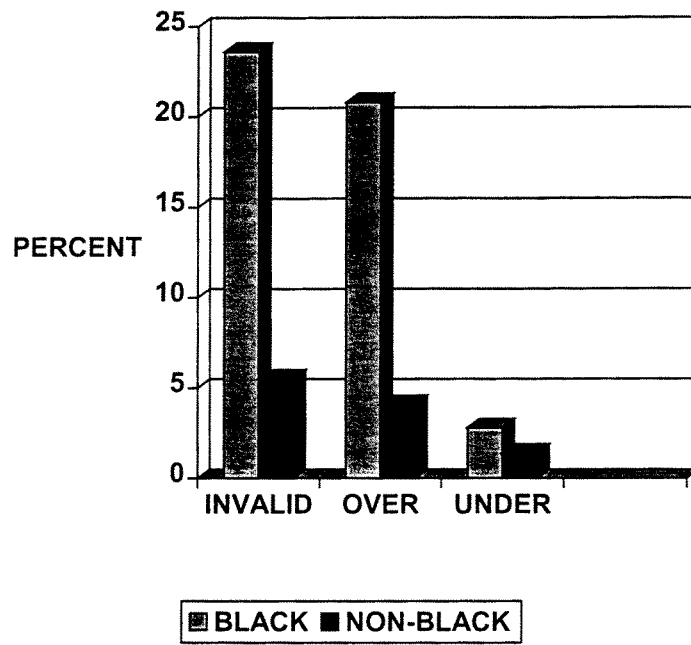
GRAPH 4: RACE AND BALLOT REJECTION RATES**DADE COUNTY, FLORIDA****2000 PRESIDENTIAL ELCTION**

Cases weighted by BALLOTS

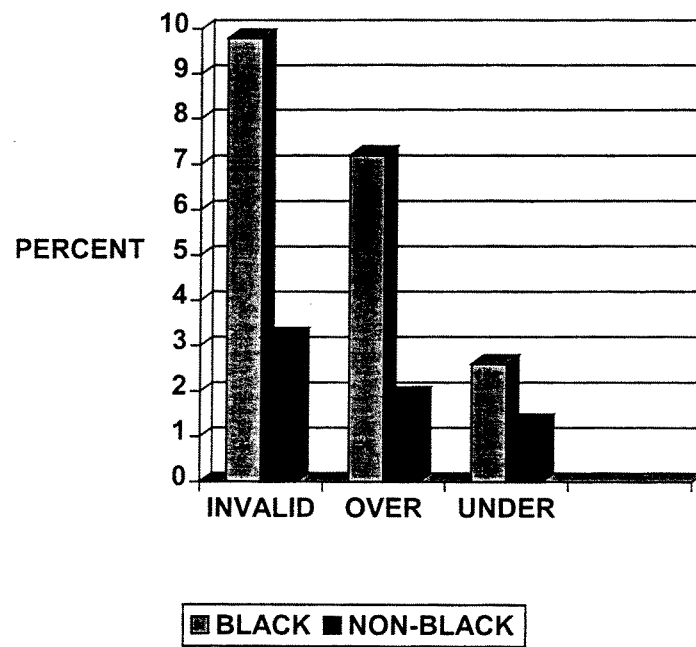
GRAPH 5: RACE AND BALLOT REJECTION RATES**PALM BEACH COUNTY, FLORIDA****2000 PRESIDENTIAL ELECTION**

Cases weighted by BALLOTS

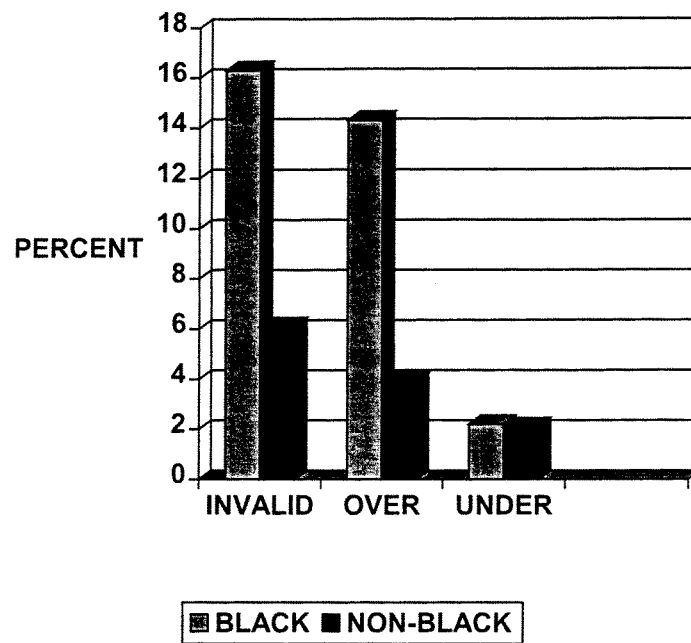
**CHART 2: REJECTION RATES BY RACE,
DUVAL COUNTY: ECOLOGICAL
REGRESSION ESTIMATES**



**CHART 3: REJECTION RATES BY RACE,
MIAMI-DADE COUNTY: ECOLOGICAL
REGRESSION ESTIMATES**



**CHART 4: REJECTION RATES BY RACE,
PALM BEACH COUNTY: ECOLOGICAL
REGRESSION ESTIMATES**



**TABLE 2: ECOLOGICAL REGRESSION AND EXTREME CASE
ANALYSIS OF DUVAL, MIAMI-DADE AND PALM BEACH COUNTY
BALLOT REJECTION RATES BY RACE**

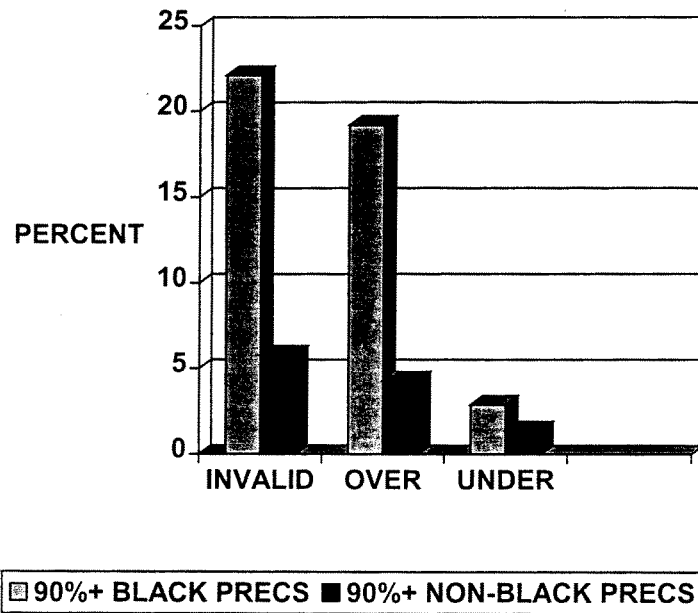
ECOLOGICAL REGRESSION RESULTS						
INVALID VOTES			OVERVOTES		UNDERVOTES	
DUVAL COUNTY	BLACK VOTERS	NON- BLACK VOTERS	BLACK VOTERS	NON- BLACK VOTERS	BLACK VOTERS	NON- BLACK VOTERS
	23.6%	5.5%	20.8%	4.1%	2.8%	1.4%
DADE COUNTY	BLACK VOTERS	NON- BLACK VOTERS	BLACK VOTERS	NON- BLACK VOTERS	BLACK VOTERS	NON- BLACK VOTERS
	9.8%	3.2%	7.2%	1.9%	2.6%	1.3%
PALM BEACH COUNTY	BLACK VOTERS	NON- BLACK VOTERS	BLACK VOTERS	NON- BLACK VOTERS	BLACK VOTERS	NON- BLACK VOTERS
	16.3%	6.1%	14.3%	3.9%	2.2%	2.1%
EXTREME CASE RESULTS						
INVALID VOTES			OVERVOTES		UNDERVOTES	
DUVAL COUNTY	90%+ BLACK PRECINCTS	90%+ NON- BLACK PRECINCTS	90%+ BLACK PRECINCTS	90%+ NON- BLACK PRECINCTS	90%+ BLACK PRECINCTS	90%+ NON- BLACK PRECINCTS
	22.1%	5.8%	19.2%	4.3%	2.9%	1.4%
DADE COUNTY	90%+ BLACK PRECINCTS	90%+ NON- BLACK PRECINCTS	90%+ BLACK PRECINCTS	90%+ NON- BLACK PRECINCTS	90%+ BLACK PRECINCTS	90%+ NON- BLACK PRECINCTS
	9.1%	3.2%	6.6%	1.9%	2.5%	1.3%
PALM BEACH COUNTY	90%+ BLACK PRECINCTS	90%+ NON- BLACK PRECINCTS	90%+ BLACK PRECINCTS	90%+ NON- BLACK PRECINCTS	90%+ BLACK PRECINCTS	90%+ NON- BLACK PRECINCTS
	16.1%	6.2%	13.8%	4.0%	2.3%	2.2%

for votes cast by blacks, compared to an estimated rate of 4.1 percent for votes cast by non-blacks. For Miami-Dade County, as demonstrated in Chart 3, the overall rate of rejection for votes cast by blacks was an estimated 9.8 percent, compared to a rate of 3.2 percent for votes cast by non-blacks. The greatest discrepancy is again for overvotes, with an estimated rejection rate of 7.2 percent for votes cast by blacks, compared to an estimated rate of 1.9 percent for votes cast by non-blacks. For Palm Beach County, as demonstrated in Chart 4, the overall the rate of rejection for votes cast by blacks was an estimated 16.3 percent, compared to a rate of 6.1 percent for votes cast by non-blacks. The greatest discrepancy is for overvotes, with an estimated rejection rate of 14.3 percent for votes cast by blacks, compared to an estimated rate of 3.9 percent for votes cast by non-blacks.¹³

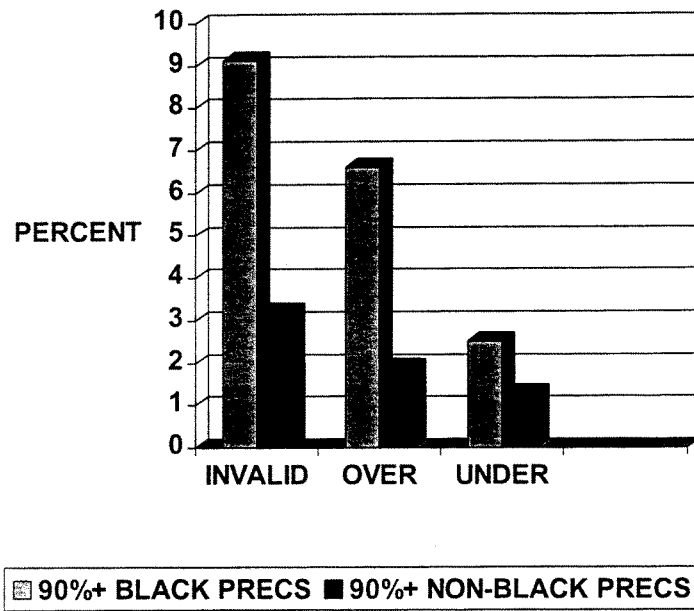
As demonstrated by Charts 5, 6, and 7, the results of extreme case analysis for 90%+ black and non-black precincts confirm the findings of ecological regression analysis. For Duval County, as demonstrated by Chart 5, in precincts that were 90 percent or more black in their voter registration the overall rate of rejection was 22.1 percent, compared to a rate of 5.8 percent for precincts that were 90 percent or more non-black in their voter registration. For Miami-Dade County, as demonstrated by Chart 6, the overall rate of rejection for votes cast by blacks was an estimated 9.1 percent, compared to a rate of 3.2 percent for votes cast by non-blacks. As reflected in Chart 7, in Palm Beach County the overall rejection rate for votes cast by blacks was an estimated 16.1 percent compared to 6.2 percent in the non-black precincts.

¹³ For each of the three counties studied, the correlation between race and ballot rejection is high and statistically significant well beyond conventional standards in social science. For Duval County, $R = .89$ and $R^2 = .791$; For Miami-Dade County, $R = .73$ and $R^2 = .53$; For Palm Beach County, $R = .50$ and $R^2 = .25$.

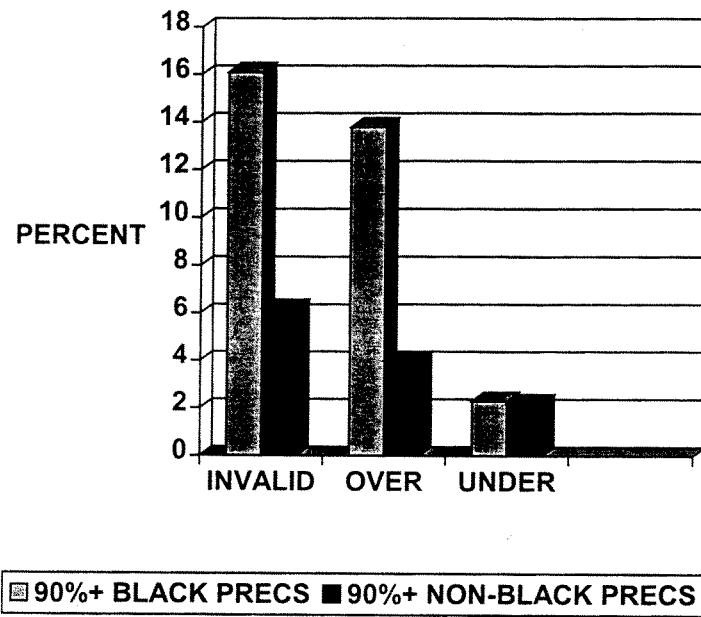
**CHART 5: REJECTION RATES BY RACE,
DUVAL COUNTY: RESULTS FOR 90%+
BLACK AND 90%+ NON-BLACK
PRECINCTS**



**CHART 6: REJECTION RATES BY RACE,
MIAMI-DADE COUNTY: RESULTS FOR 90%+
BLACK AND 90%+ NON-BLACK
PRECINCTS**



**CHART 7: REJECTION RATES BY RACE,
PALM BEACH COUNTY: RESULTS FOR
90%+ BLACK AND 90%+ NON-BLACK
PRECINCTS**

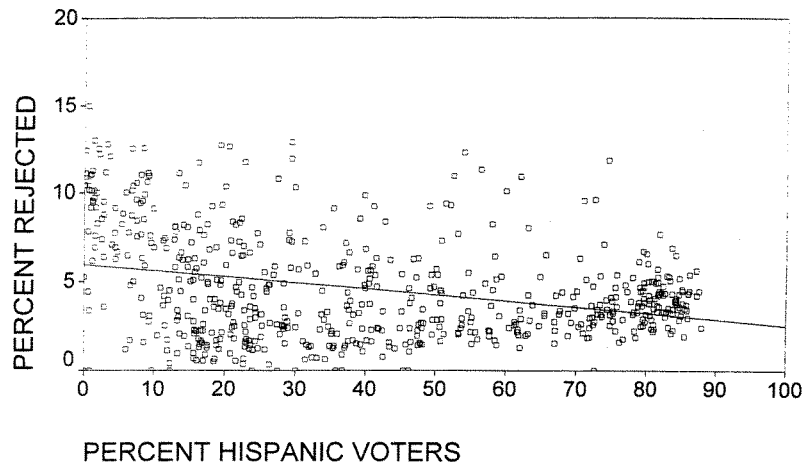


It should be stressed that the purpose of this study was to determine whether there existed in the Florida 2000 presidential election disparities between the ballot rejection rates of blacks and non-blacks. The purpose was not to establish the causes of any such disparities. However, the presence within Dade County of a substantial Hispanic population provides an opportunity to test whether differences in education are likely to have been responsible for the racial disparities in ballot rejection rates between blacks and non-blacks in that county. In Dade County, the high school graduation rate of Hispanic was about one percentage point below the rate for blacks. In addition Hispanics faced language barriers to voting issues. If educational differences were responsible for racially disparate ballot rejection rates in Dade County we should expect a positive relationship between the percentage of Hispanic registrants in Dade County precincts and the percentage of rejected ballots. As illustrated in Graph 6, however, the relationship is a negative one, with ballot rejection rates lower in heavily Hispanic than in heavily non-Hispanic (many of them black) precincts. A multivariate ecological regression equation that includes the percentage of Hispanics as well as blacks in the precincts of Dade County, produces an estimated ballot rejection rate for blacks of 10.0 percent, an eyelash higher than the rate of 9.8 percent derived from the bivariate equation.¹⁴

In the presidential election of 2000, for these three counties as well as for the state overall, the percentage of blacks among voters with rejected ballots was far greater than the black percentage of all voters. Although the statewide results are estimates derived from county-level data that should be interpreted with caution, the wide disparity they reveal between rejection rates for blacks and non-blacks are confirmed by the precinct level analysis for Duval, Miami-Dade,

¹⁴ The insertion of the percentage of Hispanics into the county-level regression equations used for statewide estimates likewise produces a higher estimate of the rate of rejection for ballots cast by African-Americans.

GRAPH 6: REJECTION RATES AND HISPANIC ETHNICITY
DADE COUNTY FLORIDA
2000 PRESIDENTIAL ELECTION



Cases weighted by WTBALLOT

and Palm Beach counties.¹⁵ The greatest disparities were found not for the undervotes that have been the focus of media attention, but for overvotes – voting for more than one candidate. Overall, about twice as many Florida ballots were rejected in the 2000 presidential election as overvotes than as undervotes.

These discrepancies in small part reflect the greater concentration of blacks as compared with non-blacks in counties using the technologies that produce the greatest percentage of rejected ballots. The evidence from Duval, Miami-Dade, and Palm Beach counties indicates that major racial disparities in ballot rejection rates are found within counties using punch card technologies. Within Duval County, based on precinct-level information, statistical estimates show that black voters were more than four times more likely than white voters to have their ballots rejected in the 2000 election. Within Miami-Dade County, based on precinct-level information, statistical estimates show that black voters were more than three times more likely than white voters to have their ballots rejected in the 2000 election. Within Palm Beach County, based on precinct-level information, statistical estimates show that black voters were nearly three times more likely than white voters to have their ballots rejected in the 2000 election.

In the three counties, the rate of rejected ballots by African-Americans ranged from about 10 percent to about 24 percent. For all three counties combined, the rate of rejected ballots averaged about 15 percent – meaning that one out of every seven African-Americans that entered the polling booth in these counties had his or her ballot rejected as invalid. These results closely mirror the county-level findings for the state overall. In these counties, the ballot rejection rate for non-African-Americans ranged from about 3 percent to 6 percent, averaging just under 5 percent.

¹⁵ Databases for the three individual counties and for the county-level analysis are appended to this report.

Thus the racial gap was just above 10 percentage points, enough to account for the rejection of more than 20,000 additional African-American ballots in these three counties alone.¹⁶

Part of the problem of ballot rejection for African-Americans in Florida can be solved by requiring the adoption of optical scanning system recorded by precinct for all counties in the state. Based on the 2000 experience, a uniform system of technology, like optical scan systems tabulated at the precinct level, would reduce the level of invalid ballots for both blacks and non-blacks. However, the use of this technology will not eliminate the disparity between the rates at which ballots cast by blacks and whites are rejected. County-level estimates indicate that even in counties using optical scanning methods recorded by precinct, the rejection rate for ballots cast by blacks was still about 5 percent compared to well under 1 percent for non-blacks.¹⁷

Technology alone is not the answer to racial discrepancies in ballot rejection. The results of these analyses demonstrate that technological change must be accompanied in all counties by effective programs of education for voters, for election officials, and for poll workers. Obviously sufficient resources must be devoted to the maintenance of voting technology and steps must be taken to assure clear and comprehensive voter instructions, easily understandable ballots, and adequate resources to assist voters at all polling places.

¹⁶ These averages are weighted by ballots cast. Unweighted averages are 17% for African-Americans and 5% for non-African-Americans: a gap of about 12 percentage points in ballot rejection. Precinct-level data was not available for counties with the highest percentages of African Americans, which also have high rates of ballot rejection.

¹⁷ It should be noted that these estimates are only suggestive of the relationship between race and ballot rejection for this limited group of counties. As already indicated, for these counties, the correlation between race and ballot rejection is relationship is positive, but not statistically significant.

APPENDICES

Curriculum Vitae – Dr. Allan J. Lichtman

Data Bases

- Countywide
- Duval County
- Miami-Dade County
- Palm Beach County

Curriculum Vitae

Allan J. Lichtman
9219 Villa Dr.
Bethesda, MD 20817

(301) 530-8262 h
(202) 885-2401 o

EDUCATION

BA, Brandeis University, Phi Beta Kappa, Magna Cum Laude, 1967

PhD, Harvard University, Graduate Prize Fellow, 1973

PROFESSIONAL EXPERIENCE

Teaching Fellow, American History, Harvard University, 1969-73

Instructor, Brandeis University, 1970, quantitative history.

Assistant Professor of History, The American University, 1973-1977

Associate Professor of History, The American University, 1977-78

Professor of History, The American University, 1978 -

Associate Dean for Faculty and Curricular Development, College of Arts & Sciences, The American University 1985 - 1987

Chair, Department of History, American University, 1997- 2001

Editor, Lexington Books Series, Studies in Modern American History

HONORS AND AWARDS

Outstanding Teacher, College of Arts and Sciences, 1975-76

Outstanding Scholar, College of Arts and Sciences, 1978-79

Outstanding Scholar, The American University, 1982-83

Outstanding Scholar/Teacher, The American University, 1992-93 (Highest University faculty award)

Sherman Fairchild Distinguished Visiting Scholar, California Institute of Technology, 1980-81

American University summer research grant, 1978 & 1982

Chamber of Commerce, Outstanding Young Men of America 1979-80

Graduate Student Council, American University, Faculty Award, 1982

Top Speaker Award, National Convention of the International Platform Association, 1983, 1984, 1987

National Age Group Champion (30 - 34) 3000 meter steeplechase 1979

Eastern Region Age Group Champion (30 - 34) 1500 meter run 1979

Defeated twenty opponents on nationally syndicated quiz show, TIC TAC DOUGH, 1981

Biographical Listing in Marquis, WHO's WHO IN THE AMERICA AND WHO's WHO IN THE WORLD

Selected by the Teaching Company as one of America's "Super Star Teachers."

SCHOLARSHIP

A. Books

PREJUDICE AND THE OLD POLITICS: THE PRESIDENTIAL ELECTION OF 1928 (Chapel Hill: University of North Carolina Press, 1979)

PREJUDICE AND THE OLD POLITICS: THE PRESIDENTIAL ELECTION OF 1928 (Lexington Books, 2000), reprint of 1979 edition with new introduction.

HISTORIANS AND THE LIVING PAST: THE THEORY AND PRACTICE OF HISTORICAL STUDY (Arlington Heights, Ill.: Harlan Davidson, Inc., 1978; with Valerie French)

ECOLOGICAL INFERENCE (with Laura Irwin Langbein, Sage Series in Quantitative Applications in the Social Sciences, 1978)

YOUR FAMILY HISTORY: HOW TO USE ORAL HISTORY, PERSONAL FAMILY ARCHIVES, AND PUBLIC DOCUMENTS TO DISCOVER YOUR HERITAGE (New York: Random House, 1978)

KIN AND COMMUNITIES: FAMILIES IN AMERICA (edited, with Joan Challinor, Washington, D. C.: Smithsonian Press, 1979)

THE THIRTEEN KEYS TO THE PRESIDENCY (Lanham: Madison Books, 1990, with Ken DeCell)

THE KEYS TO THE WHITE HOUSE, 1996 EDITION (Lanham: Madison Books, 1996)

THE KEYS TO THE WHITE HOUSE, (Lanham: Lexington Books Edition, 2000)

WHITE PROTESTANT AMERICA: THE RISE OF THE MODERN AMERICAN RIGHT, under contract, Grove/Atlantic Press, with Leonard Moore

B. Scholarly Articles

"The Federal Assault Against Voting Discrimination in the Deep South, 1957-1967," JOURNAL OF NEGRO HISTORY (Oct. 1969)

"Executive Enforcement of Voting Rights, 1957-60," in Terrence Goggin and John Seidel, eds., POLITICS AMERICAN STYLE (1971)

"Correlation, Regression, and the Ecological Fallacy: A Critique," JOURNAL OF INTERDISCIPLINARY HISTORY (Winter 1974)

"Critical Election Theory and the Reality of American Presidential Politics, 1916-1940," AMERICAN HISTORICAL REVIEW (April 1976)

"Across the Great Divide: Inferring Individual Behavior From Aggregate Data," POLITICAL METHODOLOGY (with Laura Irwin, Fall 1976)

"Regression vs. Homogeneous Units: A Specification Analysis," SOCIAL SCIENCE HISTORY (Winter 1978)

"Language Games, Social Science, and Public Policy: The Case of the Family," in Harold Wallach, ed., APPROACHES TO CHILD AND FAMILY POLICY (Washington, D. C.: American Association for the Advancement of Science, 1981)

"Pattern Recognition Applied to Presidential Elections in the United States, 1860-1980: The Role of Integral Social, Economic, and Political Traits," PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCE (with V. I. Keilis-Borok, November 1981)

"The End of Realignment Theory? Toward a New Research Program for American Political History," HISTORICAL METHODS (Fall 1982)

"Kinship and Family in American History," in National Council for Social Studies Bulletin, UNITED STATES HISTORY IN THE 1980s (1982)

"Modeling the Past: The Specification of Functional Form," JOURNAL OF INTERDISCIPLINARY HISTORY (with Ivy Broder, Winter 1983)

"Political Realignment and 'Ethnocultural' Voting in Late Nineteenth Century America," JOURNAL OF SOCIAL HISTORY (March 1983)

"The 'New Political History': Some Statistical Questions Answered," SOCIAL SCIENCE HISTORY (with J. Morgan Kousser, August 1983)

"Personal Family History: A Bridge to the Past," PROLOGUE (Spring 1984)

"Geography as Destiny," REVIEWS IN AMERICAN HISTORY (Sept., 1985)

"Civil Rights Law: High Court Decision on Voting Act Helps to Remove Minority Barriers," NATIONAL LAW JOURNAL (with Gerald Hebert, November 10, 1986).

"Tommy The Cork: The Secret World of Washington's First Modern Lobbyist," WASHINGTON MONTHLY (February, 1987).

"Discriminatory Election Systems and the Political Cohesion Doctrine," NATIONAL LAW JOURNAL (with Gerald Hebert, Oct. 5, 1987)

"Aggregate-Level Analysis of American Midterm Senatorial Election Results, 1974-1986," PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES (Dec. 1989, with Volodia Keilis-Borok)

"Black/White Voter Registration Disparities in Mississippi: Legal and Methodological Issues in Challenging Bureau of Census Data," JOURNAL OF LAW AND POLITICS (Spring, 1991, with Samuel Issacharoff)

"Adjusting Census Data for Reapportionment: The Independent Role of the States," NATIONAL BLACK LAW JOURNAL (1991)

"Passing the Test: Ecological Regression in the Los Angeles County Case and Beyond,"
EVALUATION REVIEW (December, 1991)

Understanding and Prediction of Large Unstable Systems in the Absence of Basic Equations,"
PROCEEDINGS OF THE INTERNATIONAL SYMPOSIUM ON CONCEPTUAL TOOLS
FOR UNDERSTANDING NATURE (with V. I. Keilis-Borok, Trieste, Italy, 1991).

"The Self-Organization of American Society in Presidential and Senatorial Elections," in Yu.
Krautsov, ed., THE LIMITS OF PREDICTABILITY (with V.I. Keilis-Borok, Nauka, Moscow,
1992).

"'They Endured:' The Democratic Party in the 1920s," in Ira Foreman, ed., DEMOCRATS AND
THE AMERICAN IDEA: A BICENTENNIAL APPRAISAL (1992).

"A General Theory of Vote Dilution," LA RAZA (with Gerald Hebert) 6 (1993).

"Adjusting Census Data for Reapportionment: The Independent Role of the States," JOURNAL
OF LITIGATION (Dec. 1993, with Samuel Issacharoff)

"The Keys to the White House: Who Will be the Next American President?," SOCIAL
EDUCATION 60 (1996)

"The Rise of Big Government: Not As Simple As It Seems," REVIEWS IN AMERICAN
HISTORY 26 (1998)

"The Keys to Election 2000," SOCIAL EDUCATION (Nov/Dec. 1999), pp. 422-424

"The Keys to the White House 2000," NATIONAL FORUM (Winter, 2000), pp. 13-16.

"Report on the Implications for Minority Voter Opportunities if Corrected census Data Had Been
Used for the Post-1990 Redistricting: States With The Largest Numerical Undercount," UNITED
STATES CENSUS MONITORING BOARD, January 2001

"The Alternative-Justification Affirmative: A New Case Form," JOURNAL OF THE
AMERICAN FORENSIC ASSOCIATION (with Charles Garvin and Jerome Corsi, Fall 1973)

"The Alternative-Justification Case Revisited: A Critique of Goodnight, Balthrop and Parsons,
'The Substance of Inherency,'" JOURNAL OF THE AMERICAN FORENSIC ASSOCIATION
(with Jerome Corsi, Spring 1975)

"A General Theory of the Counterplan," JOURNAL OF THE AMERICAN FORENSIC
ASSOCIATION (with Daniel Rohrer, Fall 1975)

"The Logic of Policy Dispute," JOURNAL OF THE AMERICAN FORENSIC ASSOCIATION (with Daniel Rohrer, Spring 1980)

"Policy Dispute and Paradigm Evaluation," JOURNAL OF THE AMERICAN FORENSIC ASSOCIATION (with Daniel Rohrer, Fall 1982)

"New Paradigms For Academic Debate," JOURNAL OF THE AMERICAN FORENSIC ASSOCIATION (Fall, 1985)

"Competing Models of the Debate Process," JOURNAL OF THE AMERICAN FORENSIC ASSOCIATION (Winter 1986)

"The Role of the Criteria Case in the Conceptual Framework of Academic Debate," in Donald Terry, ed., MODERN DEBATE CASE TECHNIQUES (with Daniel Rohrer, 1970)

"Decision Rules for Policy Debate," and "Debate as a Comparison of Policy Systems," in Robert 2, ed., THE NEW DEBATE: READINGS IN CONTEMPORARY DEBATE THEORY (with Daniel Rohrer, 1975)

"A Systems Approach to Presumption and Burden of Proof;" "The Role of Empirical Evidence in Debate;" and "A General Theory of the Counterplan," in David Thomas, ed., ADVANCED DEBATE: READINGS IN THEORY, PRACTICE, AND TEACHING (with Daniel Rohrer, 1975)

"Decision Rules in Policy Debate;" "The Debate Resolution;" "Affirmative Case Approaches;" "A General Theory of the Counterplan;" "The Role of Empirical Evidence in Debate;" and "Policy Systems Analysis in Debate," in David Thomas, ed., ADVANCED DEBATE (revised edition, with Daniel Rohrer and Jerome Corsi, 1979)

C. Popular Articles

"Presidency By The Book," POLITICS TODAY (Nov. 1979) Reprinted: LOS ANGELES TIMES

"The Grand Old Ploys," NEW YORK TIMES Op Ed (July 18, 1980)

"The New Prohibitionism," THE CHRISTIAN CENTURY (Oct. 29, 1980)

"Which Party Really Wants to 'Get Government Off Our Backs'?" CHRISTIAN SCIENCE MONITOR Opinion Page (Dec. 2, 1980)

"Do Americans Really Want 'Coolidge Prosperity' Again?" CHRISTIAN SCIENCE MONITOR Opinion Page (August 19, 1981)

"Chipping Away at Civil Rights," CHRISTIAN SCIENCE MONITOR Opinion Page (Feb. 17, 1982)

"How to Bet in 1984. A Presidential Election Guide," WASHINGTONIAN MAGAZINE (April 1982) Reprinted: THE CHICAGO TRIBUNE

"The Mirage of Efficiency," CHRISTIAN SCIENCE MONITOR Opinion Page (October 6, 1982)

"For RIFs, It Should Be RIP," LOS ANGELES TIMES Opinion Page (January 25, 1983)

"The Patronage Monster, Con't." WASHINGTON POST Free For All Page (March 16, 1983)

"A Strong Rights Unit," NEW YORK TIMES Op Ed Page (June 19, 1983)

"Abusing the Public Till," LOS ANGELES TIMES Opinion Page (July 26, 1983)

The First Gender Gap," CHRISTIAN SCIENCE MONITOR Opinion Page (August 16, 1983)

"Is Reagan A Sure Thing?" FT. LAUDERDALE NEWS Outlook Section (Feb. 5, 1984)

"The Keys to the American Presidency: Predicting the Next Election," TALENT (Summer 1984)

"GOP: Winning the Political Battle for '88," CHRISTIAN SCIENCE MONITOR, Opinion Page, (Dec. 27, 1984)

"The Return of 'Benign Neglect'," WASHINGTON POST, Free For All, (May 25, 1985)

"Selma Revisited: A Quiet Revolution," CHRISTIAN SCIENCE MONITOR, Opinion Page, (April 1, 1986)

"Democrats Take Over the Senate" THE WASHINGTONIAN (November 1986; article by Ken DeCell on Lichtman's advance predictions that the Democrats would recapture the Senate in 1986)

"Welcome War?" THE BALTIMORE EVENING SUN, Opinion Page, (July 15, 1987)

"How to Bet in 1988," WASHINGTONIAN (May 1988; advance prediction of George Bush's 1988 victory)

"President Bill?," WASHINGTONIAN (October 1992; advance prediction of Bill Clinton's 1992 victory)

"Don't be Talked Out of Boldness," CHRISTIAN SCIENCE MONITOR, Opinion Page (with Jesse Jackson, November 9, 1992)

"Defending the Second Reconstruction," CHRISTIAN SCIENCE MONITOR, Opinion Page (April 8, 1994)

"Quotas Aren't The Issue," NEW YORK TIMES, Op Ed Page (Dec. 7, 1994)

"History According to Newt," WASHINGTON MONTHLY (May, 1995)

Bi-weekly column, THE MONTGOMERY JOURNAL 1990 - present

Election-year column, REUTERS NEWS SERVICE 1996 & 2000

D. Reviews

Robert W. Fogel and Stanley Engerman, TIME ON THE CROSS: THE ECONOMICS OF SLAVERY, THE NEW REPUBLIC (July 6, 1974)

Burl Noggle, INTO THE TWENTIES, AMERICAN HISTORICAL REVIEW (1976)

Jerome Clubb, William Flanigan, and Nancy Zingale: PARTISAN REALIGNMENT, AMERICAN HISTORICAL REVIEW (1982)

Paul M. Kleppner, WHO VOTED?, JOURNAL OF AMERICAN HISTORY (1983)

Stanley Kelley, INTERPRETING ELECTIONS, JOURNAL OF AMERICAN HISTORY (1984)

Paula Eldot, AL SMITH AS GOVERNOR OF NEW YORK, AMERICAN HISTORICAL REVIEW (1984)

Paul Kleppner, THE THIRD ELECTORAL SYSTEM, JOURNAL OF AMERICAN HISTORY (1988)

Arno Mayer, WHY THE HEAVENS DID NOT DARKEN, WASHINGTON POST (1989)

TEACHING

Ongoing Courses

The History of the U. S. I & II, The Emergence of Modern America, The U. S. in the Twentieth Century, United States Economic History, Historiography, Major Seminar in History, Graduate Research Seminar, Colloquium in U. S. History Since 1865, The American Dream, The Urban-Technological Era, Senior Seminar in American Studies, Seminar in Human Communication.

New Courses: Taught for the first time at The American University

Quantification in History, Women in Twentieth Century American Politics, Women in Twentieth Century America, Historians and the Living Past (a course designed to introduce students to the excitement and relevance of historical study), How to Think: Critical Analysis in the Social Sciences, Pivotal Years of American Politics, Government and the Citizen (Honors Program), Introduction to Historical Quantification, Public Policy in U. S. History, Honors Seminar in U.S. Presidential Elections, America's Presidential Elections.

TELEVISION APPEARANCES

Political commentary on NBC, CBS, ABC, CNN, C-SPAN, CNN, FOX, MSNBC, BBC, PBS, and numerous other broadcasting outlets internationally

Regular political commentary for NBC News Nightside.

Regular political commentary for Voice of America and USIA.

Regular political commentary for America's Talking Cable Network.

Regular political commentary for the Canadian Broadcasting System.

Appearances on numerous foreign television networks.

Consultant and on-air commentator for NBC special productions video project on the history of the American presidency.

CBS New Consultant, 1998 and 1999

RADIO SHOWS

I have participated in more than 1500 radio interview and talk shows broadcast nationwide, in foreign nations, and in cities such as Washington, D. C., New York, Atlanta, Chicago, Los Angeles and Detroit. My appearances include the Voice of America, National Public Radio, and well as all major commercial radio networks.

PRESS CITATIONS

I have been cited hundreds of times on public affairs in the nation's leading newspapers. These include, among many others,

New York Times, Washington Post, USA Today, Los Angeles Times, Wall Street Journal, Miami Herald, Washington Times, St. Louis Post Dispatch, Christian Science Monitor, Philadelphia Inquirer.

CONFERENCES AND LECTURES

Invited participant and speaker, Bostick Conference on Fogel and Engerman's TIME ON THE CROSS, University of South Carolina, Nov. 1-2, 1974

"Critical Election Theory and the Presidential Election of 1928," Annual Meeting of the American Historical Association, Dec. 1974

"A Psychological Model of American Nativism," Bloomsberg State Historical Conference, April 1975

"Methodology for Aggregating Data in Education Research," National Institute of Education, Symposium on Methodology, July 1975 (with Laura Irwin)

Featured Speaker, The Joint Washington State Bicentennial Conference on Family History, Oct. 1975

Featured Speaker, The Santa Barbara Conference on Family History, May 1976

Chairman, The Smithsonian Institution and the American University Conference on Techniques for Studying Historical and Contemporary Families, June 1976

Panel Chairman, Sixth International Smithsonian Symposium on Kin and Communities in America, June 1977

"The uses of History for Policy Analysis," invited lecture, Federal Interagency Panel on Early Childhood Research, Oct. 1977

Invited participant, Conference on "Child Development within the Family - Evolving New Research Approaches," Interagency Panel of the Federal Government for Research and Development on Adolescence, June 1978

Commentator on papers in argumentation, Annual Meeting of the Speech Communication Association, Nov. 1978

Commentator on papers on family policy, Annual Meeting of the American Association for the Advancement of Science, Jan. 1979

"Phenomenology, History, and Social Science," Graduate Colloquium of the Department of Philosophy, The American University, March 1979

"Comparing Tests for Aggregation Bias: Party Realignments of the 1930's," Annual Meeting of the Midwest Political Science Association March 1979, with Laura Irwin Langbein

"Party Loyalty and Progressive Politics: Quantitative Analysis of the Vote for President in 1912," Annual Meeting of the Organization of American Historians, April 1979, with Jack Lord II

"Policy Systems Debate: A Reaffirmation," Annual Meeting of the Speech Communication Association, Nov. 1979

"Personal Family History: Toward a Unified Approach," Invited Paper, World Conference on Records, Salt Lake City, Aug. 1980

"Crisis at the Archives: The Acquisition, Preservation, and Dissemination of Public Documents," Annual Meeting of the Speech Communication Association, Nov. 1980

"Recruitment, Conversion, and Political Realignment in America: 1888- 1940," Social Science Seminar, California Institute of Technology, April 1980

"Toward a Situational Logic of American Presidential Elections," Annual Meeting of the Speech Communication Association, Nov. 1981

"Political Realignment in American History," Annual Meeting of the Social Science History Association, Oct. 1981

"Critical Elections in Historical Perspective: the 1890s and the 1930s," Annual Meeting of the Social Science History Association, Nov. 1982

Commentator for Papers on the use of Census data for historical research, Annual Meeting of the Organization of American Historians, April 1983

"Thirteen Keys to the Presidency: How to Predict the Next Election," Featured Presentation, Annual Conference of the International Platform Association, August 1983, Received a Top Speaker Award

"Paradigms for Academic Debate," Annual Meeting of the Speech Communication Association, Nov. 1983

Local Arrangements Chairman, Annual Convention of the Social Science History Association Oct. 1983

"Forecasting the Next Election," Featured Speaker, Annual Convention of the American Feed Manufacturers Association (May 1984)

Featured Speaker, "The Ferraro Nomination," Annual Convention of The International Platform Association, August 1984, Top Speaker Award

"Forecasting the 1984 Election," Annual Convention of the Social Science History Association Oct. 1984,

Featured Speaker, "The Keys to the Presidency," Meeting of Women in Government Relations Oct. 1984

Featured Speaker, "The Presidential Election of 1988," Convention of the American Association of Political Consultants, December, 1986

Featured Speaker, "The Presidential Election of 1988," Convention of the Senior Executive Service of the United States, July 1987

Commentary on Papers on Voting Rights, Annual Meeting of the American Political Science Association, September 1987.

Commentary on Papers on Ecological Inference, Annual Meeting of the Social Science History Association, November 1987.

Featured Speaker: "Expert Witnesses in Federal Voting Rights Cases," National Conference on Voting Rights, November 1987.

Featured Speaker: "The Quantitative Analysis of Electoral Data," NAACP National Conference

on Voting Rights and School Desegregation, July 1988.

Panel Chairman, "Quantitative Analysis of the New Deal Realignment," Annual Meeting of the Social Science History Association, Nov. 1989.

Keynote Speaker, Convocation of Lake Forest College, Nov. 1989.

Featured Speaker, The American University-Smithsonian Institution Conference on the Voting Rights Act, April 1990

Panel Speaker, Voting Rights Conference of the Lawyer's Committee for Civil Rights Under Law, April 1990

Panel Speaker, Voting Rights Conference of the NAACP, July 1990

Panel Speaker, Voting Rights Conference of Stetson University, April 1991

Panel Chairman, Annual Meeting of the Organization of American Historians, April, 1992

Panel Speaker, Symposium on "Lessons from 200 Years of Democratic Party History, Center for National Policy, May 1992

Olin Memorial Lecture, U.S. Naval Academy, October 1992

Commentator, Annual Meeting of the Organization of American Historians, April, 1993

Panel presentation, Conference on Indian Law, National Bar Association, April 19993

Feature Presentation, Black Political Science Association, Norfolk State University, June 1993

Delegation Head, Delegation of Washington Area Scholars to Taiwan, Presented Paper on the promotion of democracy based on the American experience, July 1993

Feature Presentation, Southern Regional Council Conference, Atlanta Georgia, November, 1994

Master of Ceremonies and Speaker, State of the County Brunch, Montgomery County, February, 1996

Feature Presentation, "Predicting The Next Presidential Election," Freedom's Foundation Seminar on the American Presidency, August 1996

Feature Presentation, "Predicting The Next Presidential Election," Salisbury State College, October 1996

Feature Presentation on the Keys to the White House, Dirksen Center, Peoria, Illinois, August, 2000

Feature Presentation on American Political History, Regional Conference of the Organization of American Historians, August 2000

Testimony Presented Before the United States Commission on Civil Rights Regarding Voting Systems and Voting Rights, January 2001

Testimony Presented Before the United States House of Representatives, Judiciary Committee, Subcommittee on the Constitution, February 2001

DEPARTMENTAL AND UNIVERSITY SERVICE

Department of History Council 1973 -

Undergraduate Committee, Department of History 1973-77

Chairman Undergraduate Committee, Department of History 1984-85

Graduate Committee, Department of History, 1978-84

Freshman Advisor, 1973-1979

First Year Module in Human Communications, 1977-79

University Committee on Fellowships and Awards 1976-78

University Senate 1978-79, 1984-85

University Senate Parliamentarian and Executive Board 1978-79

Founding Director, The American University Honors Program, 1977-79

Chairman, College of Arts and Sciences Budget Committee 1977-78, 1982-84

University Grievance Committee, 1984-85

Member, University Honors Committee 1981-82

College of Arts and Sciences Curriculum Committee 1981-82

Jewish Studies Advisory Board, 1982-1984

Mellon Grant Executive Board, College of Arts & Sciences, 1982-83

Chairman, College of Arts and Sciences Faculty Colloquium, 1983

Chairman, College of Arts and Sciences Task Force on the Department of Performing Arts, 1984-85

Local Arrangements Chairman, National Convention of the Social Science History Association, 1983

Chairman, Rank & Tenure Committee of the Department of History, 1981-82, 1984-85

Board Member, Center for Congressional and Presidential Studies, The American University, 1988-89

Chairman, Graduate Committee, Department of History, 1989 - 1991

Chairman, Distinguished Professor Search Committee 1991

Member, College of Arts & Sciences Associate Dean Search Committee, 1991

Board Member, The American University Press, 1991-95

Chair, Subcommittee on Demographic Change, The American University Committee on Middle States Accreditation Review 1992-94

Member, Dean's Committee on Curriculum Change, College of Arts and Sciences 1992 - 1993

Member, Dean's Committee on Teaching, College of Arts and Sciences 1992 -

Co-Chair, Department of History Graduate Committee, 1994-95

Vice-Chair, College of Arts & Sciences Educational Policy Committee, 1994-95

Elected Member, University Provost Search Committee, 1995-96

Chair, Search Committee for British and European Historian, Department of History, 1996

OTHER POSITIONS

Director of Forensics, Brandeis University, 1968-71

Director of Forensics, Harvard University, 1971-72

Chairman, New York-New England Debate Committee, 1970-71

Historical consultant to the Kin and Communities Program of the Smithsonian Institution
1974-1979

Along with general advisory duties, this position has involved the following activities:

1. directing a national conference on techniques for studying historical and contemporary families held at the Smithsonian in June 1976.
2. chairing a public session at the Smithsonian on how to do the history of one's own family.
3. helping to direct the Sixth International Smithsonian Symposium on Kin and Communities in America (June 1977).
4. editing the volume of essays from the symposium.

Consultant, Expert Witness and Analyst of Third Parties in the United States.

1. Consultant to John Anderson campaign for president, 1980.

I researched and wrote a study on "Restrictive Ballot Laws and Third-Force Presidential Candidates." This document was a major component of Anderson's legal arguments against restrictive ballot laws that ultimately prevailed in the Supreme Court (Anderson v. Celebrezze 1983). According to Anderson's attorney: "the basis for the majority's decision echoes the themes you incorporated in your original historical piece we filed in the District Court."

2. Expert Witness for New Alliance Party Ballot Access in State of Alabama, 1990 (New Alliance Party v. Hand)

I analyzed the state of Alabama's system for third-party ballot access to demonstrate that the state's early filing deadline for third parties imposed an undue burden on such parties, without justification by a compelling state interest for the ballot restrictions. My analysis was accepted by the federal district court (in which I was recognized as an expert on third parties) in a decision that was upheld by the 11th Circuit Court of Appeals.

3. Expert Witness for Reform Party Ballot Access in State of Arkansas, 1996 (Citizens to Establish a Reform Party in Arkansas v. Priest)

I analyzed the state of Arkansas system for third-party ballot access to demonstrate that the combination of an early filing deadline and relatively high signature requirements for third parties imposed an undue burden on such parties, without justification by a compelling state interest for the ballot restrictions. I also analyzed the burdens placed on third-parties by the disparity between third-party and independent signature requirements and by the lack of a cure provision for ballot signatures, which is available for initiative and referendum petitions. My analysis was accepted by the federal district court in which I was again recognized as an expert on third parties.

4. Books and articles dealing with third parties in the United States.

These include PREJUDICE AND THE OLD POLITICS: THE PRESIDENTIAL ELECTION OF 1928, THE THIRTEEN KEYS TO THE PRESIDENCY, THE KEYS TO THE WHITE HOUSE, 1996, "Critical Election Theory and the Reality of American Presidential Politics, 1916-1940," AMERICAN HISTORICAL REVIEW (April 1976), "Political Realignment and 'Ethnocultural' Voting in Late Nineteenth Century America," JOURNAL OF SOCIAL HISTORY (March 1983), "'They Endured:' The Democratic Party in the 1920s," in Ira Foreman, ed., DEMOCRATS AND THE AMERICAN IDEA: A BICENTENNIAL APPRAISAL (1992).

5. Media Citations and appearances.

These include quotations in newspaper articles dealing with third parties, analyses of the role of third parties in popular articles (e.g., "President Bill?" WASHINGTONIAN (Oct., 1992), an appearance as a third-party expert on C-SPAN's Washington Journal program on third parties (03/20/96), appearances on United States Information Agency's Worldnet television on the American party system, an appearance on National Public Radio Talk of the Nation as an expert on third parties, and a speech to foreign correspondents at the National Press Club on third parties.

Statistical Consultant to the George Washington University Program of Policy Studies in Science and Technology, 1983

I advised researchers at the Policy Studies Program on the application of pattern recognition techniques to their work on the recovery of communities from the effects of such natural disasters as earthquakes and floods.

Expert Witness-on Quantitative Analysis, Political Systems, Political History, and Voting Behavior for the Lawyers, Committee for Civil Rights Under Law 1983-

I have analyzed racial bloc voting, turnout, and registration; socioeconomic conditions; political systems; and methodological issues for voting rights cases involving the following Jurisdictions: Petersburg, Virginia; Boston Massachusetts; Holyoke Massachusetts; Hinds County Mississippi; the state of Mississippi (voter registration); the state of Mississippi (judicial elections); Springfield, Illinois; Pittsburgh Pennsylvania; Anchorage, Alaska; Holyoke, Massachusetts; Crittenden County, Arkansas; Red Clay School District, Delaware; the state of Florida (judicial elections). I have also analyzed statistical information on promotion practices for probation officers within the Philadelphia Court of Common Pleas.

I prepared written reports for each of the three of the Mississippi cases, the Pittsburgh case, the Red Clay School District case, the Philadelphia case, and the Florida judges case. I presented in-court testimony for the judicial and registration cases in Mississippi, two judicial cases in Florida, and for the cases involving Springfield, Illinois; Holyoke Massachusetts; Crittenden County, Arkansas; and Red Clay School District.

Expert Witness on Quantitative Analysis, Political Systems, Political History, and Voter Behavior for the United States Department of Justice 1983 -

I have analyzed racial bloc voting; turnout and registration; socioeconomic conditions; political systems; methodological issues for voting rights cases in the following jurisdictions: Greenwood, Mississippi; Halifax County, North Carolina; Valdosta, Georgia; Bessemer, Alabama; Marengo County, Alabama; Dallas County, Alabama; Selma, Alabama; Cambridge, Maryland; Darlington County, South Carolina; Lee County, Mississippi; Passaic, New Jersey; Lawrence, Massachusetts; Santa Paula, California; the state of North Carolina (judicial elections); Augusta, Georgia; Wicomico County, Maryland; the state of Mississippi; Los Angeles, California; the state of Georgia (judicial elections, majority vote requirement, and Shaw v. Reno type challenge); the state of Florida (statewide legislative plans); the state of Texas (judicial elections, Edwards Aquifer governing plans); the city of Chicago (Shaw v. Reno type challenge to Hispanic congressional district).

I prepared written reports for the cases in Greenwood, Halifax County, Marengo County, Dallas County, Selma, Cambridge, Wicomico County, Los Angeles County, Lee County, Passaic, Lawrence, Santa Paula, Georgia, Florida, and Texas, and Chicago. I presented in-court testimony for the cases in Dallas, Marengo, Wicomico, and Los Angeles Counties, and the states of Florida, Georgia (judicial elections, Shaw v. Reno challenge), and Chicago.

Expert Witness on Quantitative Analysis, Political Systems, Demography, and Voter Behavior for State, Municipal and County Jurisdictions, 1986-

I have analyzed matters such as racial and party bloc voting, turnout and registration, annexations, racial demography, political systems, and methodological issues for various state,

municipal and county jurisdictions: Claiborne County, Mississippi; Dade County, Florida; Grenada County, Mississippi; Spartansburg, South Carolina; Maywood School District, Illinois; Crete-Monee School District and Rockford School District, Illinois; the city of New York (Charter Revision Commission); the state of North Carolina (judges and redistricting); the state of Virginia; the state of Maryland; the state of Texas; the state of Connecticut; the state of Pennsylvania (non-partisan commission); the state of New York (Assembly); the state of New Jersey (non-partisan commission); the state of Louisiana; and Indianapolis, Indiana.

I prepared written reports for Claiborne, Grenada, and Dade Counties, Crete-Monee School District, and the states of Louisiana, Maryland, New Jersey, North Carolina, New York, Texas, and Virginia. I presented oral testimony on behalf of Claiborne County, Crete-Monee School District, the state of Texas, the state of New Jersey, the state of North Carolina, and the state of Louisiana. For the states of Louisiana, Texas, and North Carolina I have provided testimony related to issues posed in the Supreme Court case, Shaw v Reno.

Expert Witness on Quantitative Analysis, Political Systems, Political History, and Voter Behavior for Private Attorneys: 1986-

I analyzed matters such as racial bloc voting, turnout and registration, political systems, political history, annexations, and methodological issues for private attorneys in voting rights cases taking place in Boyle, Mississippi; Cleveland, Mississippi; Mississippi statewide (on behalf of minority voters, legislative plan and Supreme Court Districts); City of Starke and Hardee County, Florida; Peoria Illinois; Chicago Heights, Illinois; Jefferson County, Alabama; Chickasaw, Lafayette, Monroe, Newton, Simpson, and Yalobusha counties, Mississippi; Columbus County, North Carolina; Kent County, Michigan; Massachusetts statewide (on behalf of Republican party, legislative plan); and Michigan statewide (on behalf of Democratic party, legislative and congressional plans). I have analyzed statistical results of employment decisions by employers for an employment discrimination case, analyzed the history of peremptory strikes of black and white jurors in Hinds County for a death penalty case, and ballot access by third parties in Jefferson County, Alabama. I have analyzed the influence of voting system technology on voting in Florida during the 2000 presidential election.

I prepared written reports for all cases except Peoria and Jefferson County and have presented oral testimony in the jury selection case; Starke County; Hardee County; Jefferson County; Chicago Heights, Monroe County; Chickasaw County; Lafayette County; Newton County, Columbus County; the statewide Michigan cases; the statewide Mississippi redistricting case; and the Florida voting systems case.

Expert Witness on Quantitative Analysis, Political Systems, Political History, and Voter Behavior for the ACLU. 1987 -

I analyzed racially polarized voting, the socioeconomic standing of racial groups, and

black political opportunities for Henrico and Brunswick Counties, Virginia; and Southern Pines and Moore County, North Carolina. I prepared a written report for the Henrico case and the Southern Pines case. I presented in-court testimony for the Henrico, Brunswick, and Southern Pines cases.

Expert Witness on Quantitative Analysis, Political Systems, Political History, and Voter Behavior for the Southern Poverty Law Center. 1990 -

I analyzed racially polarized voting, the socioeconomic conditions, and black political opportunities for judicial circuits in Alabama. I prepared a written report and presented oral testimony.

Expert Witness for the Mexican-American Legal Defense Fund, 1991 -

I analyzed the impact of the Census undercount on the state legislative plan in Texas, including oral testimony in state court. I analyzed racially polarized voting in the city of Chicago and its implications for aldermanic elections.

Expert Witness on Quantitative Analysis, Political Systems, Political History, and Voter Behavior for the NAACP, 1993-

I prepared a written report and presented in-court testimony for the NAACP's challenge to the State House and Senate plan in Michigan.

Expert Witness on voter purging for the Puerto Rican Legal Defense and Education Fund 1991 -

I prepared a written report and presented in-court testimony for PRLDEF's challenge to voter purging in Philadelphia.

Case Summaries*

	FLCOUNT Y	BALLOTS C	NOVOTE SC	OVERVO TES	UNDERV OTES
1	Alachua	86144.00	415.00	102	225
2	Baker	8300.00	140.00	46	94
3	Bay	59520.00	663.00	134	529
4	Bradford	9414.00	741.00	694	40
5	Brevard	218989.00	594.00	136	277
6	Broward	587928.00	14622.00	7925	6686
7	Calhoun	5256.00	78.00	0	78
8	Charlotte	70100.00	3204.00	2988	168
9	Citrus	57468.00	217.00	54	163
10	Clay	57764.00	411.00	53	100
11	Collier	95325.00	3184.00	1102	2082
12	Columbia	19206.00	693.00	76	617
13	Dade	653963.00	28601.00	17851	10750
14	Desoto	6512.00	701.00	.	.
15	Dixie	4998.00	332.00	.	.
16	Duval	291626.00	26909.00	21942	4967
17	Escambia	121141.00	4372.00	.	.
18	Fagler	27194.00	83.00	7	55
19	Franklin	5070.00	419.00	349	70
20	Gadsden	16812.00	2085.00	1951	122
21	Gilchrist	5688.00	293.00	.	.
22	Glades	3722.00	357.00	.	.
23	Gulf	6565.00	421.00	363	48
24	Hamilton	4353.00	399.00	389	0
25	Hardee	6645.00	412.00	323	65
26	Hendry	8949.00	810.00	761	39
27	Hernando	65500.00	281.00	147	101
28	Highlands	36158.00	1009.00	520	489
29	Hillsborough	369467.00	9172.00	3641	5531
30	Holmes	7539.00	139.00	.	.
31	Indian River	51559.00	1945.00	879	1058
32	Jackson	17470.00	1170.00	1063	94
33	Jefferson	6214.00	571.00	.	.
34	Lafayette	2679.00	174.00	171	0
35	Lake	91989.00	3378.00	3114	245
36	Lee	188978.00	4601.00	2550	2017
37	Leon	103377.00	181.00	.	.
38	Levy	13490.00	766.00	708	52
39	Liberty	2598.00	188.00	159	29
40	Madison	6642.00	480.00	.	.
41	Manatee	111676.00	1455.00	1267	111
42	Marion	106001.00	3345.00	900	2445
43	Martin	62570.00	557.00	.	.
44	Monroe	34095.00	208.00	97	83
45	Nassau	25387.00	1605.00	1386	195
46	Okaloosa	71512.00	765.00	680	85

Case Summaries^a

	FLCOUNT Y	BALLOTS C	NOVOTE SC	OVERVO TES	UNDERV OTES
47	Okeechobee	10722.00	858.00	774	84
48	Orange	282529.00	2404.00	1383	966
49	Osceola	57341.00	1683.00	1042	642
50	Palm Beach	461988.00	29702.00	19120	10582
51	Pasco	146648.00	3917.00	2141	1776
52	Pinellas	406596.00	8487.00	4261	4226
53	Polk	169582.00	975.00	671	228
54	Putnam	26416.00	194.00	26	83
55	Saint Johns	61313.00	532.00	132	426
56	Saint Lucie	78709.00	649.00	112	537
57	Santa Rosa	50684.00	365.00	.	.
58	Sarasota	163749.00	2807.00	991	1809
59	Seminole	137970.00	336.00	48	219
60	Sumter	23032.00	771.00	169	593
61	Suwanee	13189.00	732.00	690	42
62	Taylor	7413.00	605.00	517	82
63	Union	4084.00	258.00	.	.
64	Volusia	184153.00	500.00	488	155
65	Wakulla	9017.00	422.00	.	.
66	Walton	18537.00	219.00	72	133
67	Washington	8353.00	329.00	37	292
Total	N 67	67	67	63	63

^a Limited to first 100 cases.

Case Summaries^a

	FLCOUNT Y	TOTREG9 8	BLREG98	TREG2000	BREG200 0	LITERAT1	PHSG
1	Alachua	110713.00	15542.00	120867.00	16517.00	19.00	62.73
2	Baker	11017.00	1105.00	12352.00	1185.00	23.00	64.13
3	Bay	87628.00	7192.00	92749.00	7651.00	20.00	74.67
4	Bradford	12368.00	1666.00	13547.00	1795.00	29.00	64.95
5	Brevard	283518.00	16389.00	283680.00	15719.00	18.00	82.34
6	Broward	814075.00	102966.00	887764.00	125228.00	22.00	76.84
7	Calhoun	6432.00	692.00	7234.00	767.00	29.00	55.95
8	Charlotte	93755.00	2397.00	98898.00	2749.00	23.00	75.67
9	Citrus	72563.00	1154.00	81378.00	1335.00	24.00	68.57
10	Clay	77464.00	3581.00	86861.00	4415.00	14.00	81.15
11	Collier	107349.00	1697.00	123572.00	2151.00	20.00	79.03
12	Columbia	28805.00	3916.00	31131.00	4301.00	24.00	69.02
13	Dade	833120.00	169047.00	896912.00	176806.00	42.00	65.01
14	Desoto	14147.00	1546.00	15731.00	1675.00	32.00	54.46
15	Dixie	9869.00	479.00	10511.00	475.00	29.00	57.74
16	Duval	403904.00	95625.00	423967.00	101930.00	21.00	76.87
17	Escambia	159986.00	28641.00	171004.00	27985.00	23.00	76.21
18	Flagler	29435.00	2315.00	33466.00	2513.00	22.00	78.70
19	Franklin	7701.00	736.00	7578.00	693.00	27.00	59.49
20	Gadsden	24293.00	13334.00	26253.00	14278.00	40.00	59.86
21	Gilchrist	6237.00	212.00	6878.00	170.00	25.00	62.98
22	Glades	5451.00	213.00	6326.00	493.00	29.00	57.39
23	Gulf	9812.00	1312.00	9923.00	1292.00	26.00	66.38
24	Hamilton	6639.00	2139.00	6939.00	2221.00	35.00	58.35
25	Hardee	10024.00	702.00	10886.00	741.00	27.00	54.84
26	Hendry	15825.00	2064.00	16268.00	2134.00	31.00	56.60
27	Hernando	91771.00	2584.00	95549.00	2841.00	25.00	70.47
28	Highlands	52545.00	3566.00	52941.00	3491.00	27.00	68.22
29	Hillsborough	467975.00	54225.00	499427.00	58118.00	20.00	75.60
30	Holmes	11129.00	220.00	10317.00	173.00	24.00	57.07
31	Indian River	65043.00	3216.00	71420.00	3534.00	22.00	76.47
32	Jackson	24551.00	5306.00	23973.00	5274.00	31.00	61.61
33	Jefferson	7823.00	2802.00	8161.00	2863.00	33.00	64.13
34	Lafayette	3826.00	245.00	4036.00	255.00	33.00	58.22
35	Lake	115388.00	6498.00	131031.00	7319.00	24.00	70.62
36	Lee	240777.00	8909.00	252918.00	9290.00	20.00	76.90
37	Leon	129853.00	29141.00	146417.00	35026.00	18.00	84.87
38	Levy	17474.00	1311.00	18671.00	1310.00	27.00	62.82
39	Liberty	3508.00	351.00	3752.00	356.00	31.00	56.70
40	Madison	9601.00	3270.00	10378.00	3458.00	36.00	56.52
41	Manatee	154231.00	7931.00	170578.00	8704.00	22.00	75.58
42	Marion	136960.00	11023.00	147707.00	11990.00	25.00	69.57
43	Martin	79948.00	2476.00	86514.00	2310.00	21.00	79.70
44	Monroe	47512.00	1556.00	48409.00	1433.00	18.00	79.72
45	Nassau	30316.00	2016.00	35170.00	2239.00	19.00	71.18
46	Okaloosa	103092.00	6742.00	111320.00	7311.00	16.00	83.77

775

Case Summaries^a

	FLCOUNT Y	TOTREG9 8	BLREG98	TREG2000	BREG200 0	LITERAT1	PHSG
47	Okeechobee	18816.00	1092.00	17488.00	915.00	24.00	59.08
48	Orange	349444.00	42538.00	404779.00	51306.00	19.00	78.81
49	Osceola	82566.00	3797.00	92196.00	4339.00	18.00	73.65
50	Palm Beach	609081.00	48939.00	666694.00	55853.00	22.00	78.79
51	Pasco	210637.00	2731.00	221671.00	3203.00	24.00	66.86
52	Pinellas	559649.00	35401.00	574961.00	35005.00	20.00	78.05
53	Polk	227867.00	24437.00	247807.00	26257.00	22.00	68.01
54	Putnam	40684.00	5225.00	40396.00	5088.00	28.00	64.31
55	Saint Johns	77026.00	4129.00	89511.00	4411.00	17.00	79.91
56	Saint Lucie	131222.00	15280.00	117785.00	12874.00	24.00	71.66
57	Santa Rosa	69817.00	2094.00	77778.00	2322.00	16.00	78.46
58	Sarasota	212438.00	5610.00	221945.00	5793.00	19.00	81.25
59	Seminole	183279.00	12533.00	190704.00	13060.00	14.00	84.64
60	Sumter	25604.00	2102.00	31549.00	2370.00	29.00	64.26
61	Suwanee	20972.00	2358.00	20817.00	2141.00	27.00	63.77
62	Taylor	12147.00	1804.00	12304.00	1787.00	25.00	62.05
63	Union			6752.00	811.00	29.00	67.74
64	Volusia	250689.00	17709.00	260572.00	18180.00	21.00	75.42
65	Wakulla	12511.00	1144.00	13382.00	1204.00	17.00	71.62
66	Walton	23397.00	1284.00	28144.00	1293.00	22.00	66.55
67	Washington	13246.00	1476.00	14358.00	1535.00	28.00	60.90
Total	N	67	67	67	67	67	67

a. Limited to first 100 cases.



Division of Elections - Florida Department of State

Total Site Index

[Home](#)Certified Voting Systems
Used in Florida[Table of Methods](#)

Voting Systems

Certified Voting Systems Used in Florida

Election Systems & Software, Inc.

11208 John Galt Boulevard, Omaha, Nebraska 68137
Phone (800) AIS-VOTE (402) 593-0101

The ES&S Model 115 Voting System (release 2.1)

marksense; central tabulation

6 Counties

Bradford	Hamilton
Franklin	Lafayette
Gulf	Taylor

The ES&S Model 315 Voting System (release 2.1)

marksense; central tabulation

9 Counties

Charlotte	Jackson	Liberty
Gadsden	Lake	Okeechobee
Hendry	Levy	Suwannee

The ES&S OPTECH III-P Eagle & OPTECH IV-C Voting System (release 5)

marksense; precinct and central tabulation

6 Counties

Bay	Orange
Clay	St. Johns
Escambia	Santa Rosa

The ES&S OPTECH III-P Eagle Voting System (release 5)

marksense; precinct and central tabulation

2 Counties

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Holmes	Washington
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Election Resources Corporation

635 Plaza West, 415 N. McKinley, Little Rock, Arkansas 72205
Phone (501) 663-4678

Election Tabulation Network (ETNet) Voting System
(version 2.51 or 2.62)

punch card; Votomatic (VM) type; central tabulation

11 Counties

Broward	Lee	Pasco
Collier	Marion	Pinellas
Highlands	Osceola	Sarasota
Hillsborough	Palm Beach	

ETNet, Inc.

635 Plaza West, 415 N. McKinley, Little Rock, Arkansas 72205
Phone (501) 663-4678

Election Tabulation Worksheet and/or ETNet Voting
System (release 2.62)

punch card; Votomatic (VM) type; central tabulation

1 County

Miami-Dade

Fidlar & Chambers Company

P.O. Box 6248, Rock Island, Illinois 61204-6248
Phone (800) 747-4600

Fidlar & Chambers Election Management System
(version 1.1B and 4.37MR)

punch card; Votomatic (VM) or DataVote (DV) type; central tabulation

2 Counties

Duval (VM)	Sumter (VM)
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**Mechanical Voting Machines & Punch Card Ballots
Fidlar & Chambers Election Management System
(version 1.1B and 4.3.7MR)**

DataVote (DV) type

1 County

Martin

Global Election Systems, Inc.

1611 Wilmett Road, McKinney, Texas 75069
Phone (800) 433-8683

**Election System 2000 AccuVote Voting System
(release 1.92-14, version 1.94-w, VLR 13.9)**

marksense; precinct and/or central tabulation

17 Counties

Alachua (DV)	Hernando	Seminole
Brevard	Leon	St. Lucie
Calhoun	Manatee	Volusia
Citrus	Monroe	Walton
Columbia	Ocala	Polk
Flagler	Putnam	

Sequoia Pacific System, Corporation

1030 North Anderson Road, Exter, California 93221
Phone (209) 593-8365

**TeamWork Election Management System
(release 1.1B)**

punch card; DataVote (DV) type; central tabulation

2 Counties

Glades	Nassau
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Optech IIIP Eagle Voting System

(release 5)

1 County

Baker

Triad Governmental Systems, Inc.358 South Monroe Street, Xenia, Ohio 45385
Phone (513) 376-5446***ElecTab Ballot Tabulation System
(version 1S)***

punch card; Votomatic (VM) or DataVote (DV) type, central tabulation

8 Counties

DeSoto (DV)	Hardee (DV)	Madison (DV)
Dixie (DV)	Indian River (VM)	Wakulla (DV)
Gilchrist (DV)	Jefferson (DV)	

**Mechanical Voting Machines and
Manually Tabulated Paper Ballots**

0 Counties

Manually Tabulated Paper Ballots

1 County

Union

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780

Case Summaries

	PREC DUV	REGVOT RS	VOTECAS T	DISCARD N	PRESUN DR	PRESOV ER	BLACKRE G
1	01	733.00	499.00	51.00	7.00	44.00	223.00
2	01A	1357.00	968.00	73.00	14.00	59.00	133.00
3	01B	1867.00	1351.00	101.00	37.00	64.00	224.00
4	01C	1903.00	1451.00	86.00	23.00	63.00	210.00
5	01D	1167.00	902.00	61.00	14.00	47.00	182.00
6	01E	782.00	551.00	68.00	15.00	53.00	92.00
7	01F	1182.00	843.00	62.00	6.00	58.00	110.00
8	01G	1971.00	1374.00	117.00	25.00	92.00	246.00
9	01H	2458.00	1859.00	133.00	29.00	104.00	359.00
10	01J	1080.00	605.00	79.00	6.00	73.00	463.00
11	01K	1465.00	1070.00	98.00	27.00	71.00	153.00
12	01L	928.00	717.00	45.00	7.00	38.00	187.00
13	01M	1692.00	1380.00	79.00	22.00	57.00	128.00
14	01N	1257.00	988.00	113.00	31.00	82.00	241.00
15	01P	1390.00	945.00	106.00	13.00	93.00	510.00
16	01R	1561.00	969.00	79.00	16.00	63.00	266.00
17	01S	2737.00	1943.00	151.00	26.00	125.00	377.00
18	01T	1651.00	1349.00	56.00	15.00	41.00	128.00
19	01V	1487.00	768.00	142.00	22.00	120.00	696.00
20	02	2698.00	1979.00	116.00	26.00	90.00	356.00
21	02A	2200.00	1526.00	125.00	32.00	93.00	269.00
22	02B	1313.00	1050.00	59.00	19.00	40.00	72.00
23	02C	3481.00	2464.00	208.00	60.00	148.00	419.00
24	02D	2189.00	1796.00	73.00	25.00	48.00	93.00
25	02E	1858.00	1191.00	156.00	41.00	115.00	326.00
26	02F	2260.00	1074.00	183.00	25.00	158.00	651.00
27	02G	2036.00	1419.00	139.00	45.00	94.00	189.00
28	02H	949.00	661.00	48.00	18.00	30.00	215.00
29	02J	2332.00	1316.00	164.00	23.00	141.00	207.00
30	02K	1090.00	736.00	71.00	19.00	52.00	104.00
31	02L	1834.00	1114.00	157.00	76.00	81.00	264.00
32	02M	2426.00	1677.00	109.00	29.00	80.00	185.00
33	02N	2693.00	1754.00	119.00	23.00	96.00	275.00
34	02P	2447.00	1517.00	87.00	22.00	65.00	200.00
35	02R	846.00	701.00	28.00	13.00	15.00	21.00
36	02S	925.00	732.00	34.00	10.00	24.00	44.00
37	02T	2129.00	1543.00	121.00	30.00	91.00	237.00
38	02V	2069.00	1378.00	137.00	31.00	136.00	305.00
39	02W	1086.00	928.00	22.00	7.00	15.00	21.00
40	03	3302.00	2048.00	152.00	30.00	122.00	415.00
41	03A	2744.00	2043.00	63.00	18.00	45.00	21.00
42	03B	1892.00	1454.00	57.00	10.00	47.00	11.00
43	03C	977.00	433.00	43.00	3.00	40.00	153.00
44	03D	2758.00	2170.00	78.00	15.00	53.00	102.00
45	03E	2536.00	1893.00	64.00	22.00	42.00	16.00
46	03F	1853.00	1326.00	49.00	17.00	32.00	37.00
47	03G	2379.00	1922.00	52.00	31.00	21.00	21.00
48	03H	2544.00	1945.00	139.00	55.00	84.00	247.00

Case Summaries

	PRECDUV	REGVOT RS	VOTECAS T	DISCARD N	PRESUN DR	PRESOV ER	BLACKRE G
49	03J	2755.00	1965.00	63.00	13.00	50.00	25.00
50	03K	3021.00	2172.00	99.00	20.00	79.00	86.00
51	03L	2448.00	1460.00	101.00	12.00	89.00	149.00
52	03M	1460.00	1214.00	57.00	18.00	39.00	70.00
53	03N	2488.00	1791.00	141.00	14.00	127.00	272.00
54	03P	2158.00	1474.00	76.00	11.00	65.00	22.00
55	03R	1977.00	1487.00	66.00	32.00	34.00	41.00
56	03S	2125.00	1022.00	127.00	15.00	112.00	492.00
57	03T	744.00	508.00	12.00	4.00	8.00	12.00
58	03V	661.00	490.00	31.00	4.00	27.00	
59	04	533.00	81.00	15.00	4.00	11.00	240.00
60	04A	1622.00	1193.00	112.00	59.00	53.00	153.00
61	04B	2331.00	1266.00	85.00	10.00	75.00	168.00
62	04C	1212.00	807.00	61.00	15.00	46.00	164.00
63	04D	1322.00	1082.00	59.00	12.00	47.00	31.00
64	04E	1427.00	1156.00	77.00	32.00	45.00	37.00
65	04F	2220.00	1481.00	138.00	28.00	110.00	303.00
66	04G	1100.00	794.00	60.00	9.00	51.00	145.00
67	04H	3404.00	1879.00	196.00	26.00	170.00	990.00
68	04J	2143.00	1555.00	150.00	52.00	98.00	269.00
69	04K	1082.00	836.00	43.00	12.00	31.00	40.00
70	04L	2340.00	1648.00	132.00	38.00	94.00	299.00
71	04M	2024.00	1381.00	124.00	33.00	91.00	234.00
72	04N	2105.00	1373.00	117.00	37.00	80.00	297.00
73	04P	1398.00	974.00	105.00	18.00	87.00	286.00
74	04R	2034.00	1228.00	100.00	28.00	72.00	181.00
75	04S	542.00	391.00	34.00	4.00	30.00	90.00
76	04T	1395.00	711.00	75.00	9.00	66.00	69.00
77	04V	2207.00	1766.00	82.00	22.00	60.00	112.00
78	04W	558.00	387.00	22.00	2.00	20.00	25.00
79	04X	1030.00	695.00	35.00	4.00	31.00	85.00
80	04Y	1828.00	1518.00	30.00	10.00	20.00	
81	05	1824.00	1493.00	62.00	27.00	35.00	42.00
82	05A	2230.00	1589.00	104.00	41.00	63.00	140.00
83	05B	2664.00	2066.00	86.00	41.00	45.00	53.00
84	05C	3057.00	1681.00	89.00	20.00	69.00	378.00
85	05D	687.00	551.00	13.00	5.00	8.00	11.00
86	05E	2253.00	1914.00	61.00	22.00	39.00	19.00
87	05F	1801.00	1435.00	72.00	27.00	45.00	25.00
88	05G	1810.00	1187.00	63.00	20.00	43.00	103.00
89	05H	1546.00	1114.00	79.00	26.00	53.00	108.00
90	05J	2570.00	1955.00	88.00	23.00	65.00	164.00
91	05K	1997.00	1675.00	75.00	26.00	49.00	44.00
92	05L	911.00	631.00	83.00	7.00	76.00	216.00
93	05M	1349.00	1111.00	44.00	13.00	31.00	49.00
94	05N	2154.00	1632.00	107.00	32.00	75.00	193.00
95	05P	3322.00	2551.00	131.00	65.00	66.00	37.00
96	05R	2069.00	1422.00	89.00	31.00	58.00	210.00

Case Summaries

	PREC	REGVOT	VOTECAS	DISCARD	PRESUN	PRESOV	BLACKRE
	CDUV	RS	T	N	DR	ER	G
97	05S	1827.00	1250.00	55.00	18.00	37.00	149.00
98	05T	4026.00	3086.00	115.00	45.00	70.00	171.00
99	05V	2287.00	1418.00	83.00	18.00	65.00	242.00
100	05W	1836.00	1085.00	56.00	7.00	49.00	181.00
101	06	3276.00	2444.00	126.00	16.00	110.00	185.00
102	06A	2749.00	2216.00	90.00	33.00	57.00	109.00
103	06B	2581.00	1807.00	88.00	18.00	70.00	159.00
104	06C	1568.00	1256.00	42.00	19.00	23.00	41.00
105	06D	1941.00	1619.00	40.00	18.00	22.00	42.00
106	06E	1790.00	1430.00	32.00	4.00	28.00	32.00
107	06F	2485.00	2038.00	62.00	21.00	41.00	47.00
108	06G	2966.00	2363.00	95.00	26.00	69.00	91.00
109	06H	1835.00	1467.00	50.00	19.00	31.00	39.00
110	06J	2434.00	1762.00	92.00	20.00	72.00	146.00
111	06K	2767.00	2082.00	92.00	17.00	75.00	126.00
112	06L	1697.00	1161.00	71.00	13.00	58.00	109.00
113	06M	2261.00	1706.00	63.00	15.00	48.00	89.00
114	06N	2132.00	1693.00	70.00	13.00	57.00	53.00
115	06P	2434.00	1821.00	132.00	54.00	78.00	126.00
116	06R	2454.00	1693.00	130.00	43.00	87.00	194.00
117	06S	872.00	602.00	41.00	13.00	28.00	55.00
118	06T	2075.00	1534.00	77.00	17.00	60.00	85.00
119	07	1419.00	976.00	149.00	13.00	136.00	463.00
120	07A	906.00	562.00	83.00	11.00	72.00	224.00
121	07B	999.00	601.00	124.00	11.00	113.00	502.00
122	07C	1322.00	723.00	201.00	44.00	157.00	1246.00
123	07D	1125.00	640.00	105.00	12.00	93.00	319.00
124	07E	751.00	309.00	66.00	15.00	51.00	532.00
125	07F	1021.00	562.00	143.00	23.00	120.00	376.00
126	07G	1246.00	788.00	155.00	21.00	134.00	1235.00
127	07H	897.00	636.00	120.00	15.00	105.00	682.00
128	07J	1445.00	888.00	195.00	27.00	168.00	1172.00
129	07K	765.00	419.00	114.00	11.00	103.00	467.00
130	07L	398.00	227.00	43.00	8.00	35.00	343.00
131	07M	742.00	485.00	63.00	12.00	51.00	781.00
132	07N	1597.00	969.00	139.00	22.00	117.00	770.00
133	07P	2309.00	1729.00	298.00	53.00	245.00	1879.00
134	07R	927.00	517.00	121.00	18.00	103.00	907.00
135	07S	893.00	447.00	74.00	16.00	58.00	882.00
136	07T	2028.00	816.00	141.00	24.00	117.00	1418.00
137	07V	3683.00	925.00	83.00	29.00	54.00	1136.00
138	07W	327.00	164.00	24.00	3.00	21.00	158.00
139	07X	1486.00	1074.00	180.00	6.00	174.00	1013.00
140	08	806.00	542.00	134.00	15.00	119.00	841.00
141	08A	815.00	540.00	129.00	17.00	112.00	881.00
142	08B	1177.00	792.00	152.00	11.00	141.00	638.00
143	08C	1442.00	972.00	166.00	19.00	147.00	761.00
144	08D	1398.00	1012.00	168.00	17.00	151.00	1270.00

Case Summaries

	PREC DUV	REGVOT RS	VOTECAS T	DISCARD N	PRESUN DR	PRESOV ER	BLACKRE G
145	08E	968.00	583.00	100.00	9.00	91.00	613.00
146	08F	940.00	616.00	125.00	16.00	109.00	906.00
147	08G	1044.00	735.00	114.00	11.00	103.00	506.00
148	08H	919.00	707.00	151.00	29.00	122.00	820.00
149	08J	1427.00	1071.00	187.00	16.00	171.00	1260.00
150	08K	524.00	325.00	77.00	14.00	63.00	489.00
151	08L	1011.00	589.00	138.00	11.00	127.00	1038.00
152	08M	1318.00	788.00	159.00	21.00	138.00	1339.00
153	08N	1002.00	606.00	164.00	24.00	140.00	1005.00
154	08P	892.00	616.00	154.00	15.00	139.00	906.00
155	08Q	649.00	443.00	65.00	6.00	59.00	229.00
156	08R	1058.00	679.00	210.00	23.00	187.00	1012.00
157	08S	853.00	519.00	96.00	11.00	85.00	826.00
158	08T	591.00	375.00	54.00	5.00	49.00	602.00
159	08V	468.00	176.00	47.00	3.00	44.00	463.00
160	08W	455.00	284.00	73.00	7.00	66.00	.
161	08X	2540.00	1735.00	199.00	23.00	176.00	.
162	08Y	818.00	604.00	109.00	12.00	97.00	.
163	08Z	1873.00	1165.00	183.00	26.00	157.00	.
164	09	1720.00	942.00	121.00	16.00	105.00	.
165	09A	851.00	487.00	71.00	2.00	69.00	.
166	09B	1252.00	713.00	111.00	19.00	92.00	.
167	09C	1025.00	675.00	166.00	21.00	145.00	.
168	09D	1458.00	1010.00	245.00	34.00	211.00	.
169	09E	2010.00	1199.00	247.00	14.00	233.00	.
170	09F	876.00	511.00	116.00	11.00	105.00	.
171	09G	265.00	47.00	10.00	00	10.00	245.00
172	09H	1666.00	1166.00	250.00	41.00	209.00	1700.00
173	09J	1164.00	795.00	183.00	26.00	157.00	1124.00
174	09K	518.00	329.00	69.00	7.00	62.00	519.00
175	09L	394.00	176.00	46.00	7.00	39.00	325.00
176	09M	436.00	255.00	47.00	5.00	42.00	282.00
177	09N	1067.00	524.00	143.00	5.00	138.00	601.00
178	09P	1181.00	644.00	169.00	15.00	154.00	1110.00
179	09R	678.00	422.00	130.00	10.00	120.00	686.00
180	09S	969.00	630.00	111.00	23.00	88.00	433.00
181	09T	141.00	48.00	5.00	1.00	4.00	182.00
182	09V	1007.00	556.00	86.00	9.00	77.00	506.00
183	09W	807.00	470.00	71.00	10.00	61.00	368.00
184	09X	1239.00	745.00	156.00	12.00	144.00	819.00
185	09Y	895.00	538.00	83.00	10.00	73.00	412.00
186	10	1528.00	1065.00	299.00	61.00	238.00	1414.00
187	10A	1868.00	1293.00	261.00	36.00	225.00	1808.00
188	10B	1936.00	1328.00	296.00	23.00	273.00	1735.00
189	10C	2281.00	1404.00	171.00	18.00	153.00	928.00
190	10D	1359.00	824.00	91.00	14.00	77.00	302.00
191	10E	1928.00	1191.00	199.00	18.00	181.00	1266.00
192	10F	849.00	625.00	103.00	17.00	86.00	839.00

784

Case Summaries

	PREC	REGVOT	VOTECAS	DISCARD	PRESUN	PRESOV	BLACKRE
	DUV	RS	T	N	DR	ER	G
193	10G	1843.00	1184.00	274.00	25.00	249.00	1673.00
194	10H	1666.00	1122.00	256.00	23.00	233.00	1690.00
195	10J	2689.00	1973.00	335.00	38.00	297.00	2620.00
196	10K	1107.00	845.00	180.00	22.00	158.00	1174.00
197	10L	706.00	369.00	40.00	12.00	28.00	94.00
198	10M	990.00	525.00	74.00	7.00	67.00	176.00
199	10N	2056.00	1339.00	224.00	27.00	197.00	946.00
200	10P	1177.00	849.00	121.00	19.00	102.00	346.00
201	11	904.00	434.00	30.00	2.00	28.00	191.00
202	11A	289.00	232.00	14.00	4.00	10.00	.00
203	11B	1071.00	799.00	80.00	32.00	48.00	72.00
204	11C	1506.00	1012.00	83.00	13.00	70.00	7.00
205	11D	1487.00	1143.00	87.00	14.00	73.00	11.00
206	11E	1865.00	1224.00	152.00	31.00	121.00	20.00
207	11F	1328.00	896.00	127.00	21.00	106.00	283.00
208	11G	1944.00	1462.00	127.00	27.00	100.00	184.00
209	11H	1747.00	1311.00	128.00	18.00	110.00	585.00
210	11J	1118.00	699.00	94.00	11.00	83.00	46.00
211	11K	1064.00	760.00	67.00	12.00	55.00	6.00
212	11L	3302.00	1870.00	171.00	29.00	142.00	507.00
213	11M	1545.00	1040.00	86.00	10.00	76.00	3.00
214	11N	422.00	326.00	37.00	13.00	24.00	.00
215	11P	205.00	142.00	23.00	5.00	18.00	.00
216	11R	1540.00	1215.00	57.00	13.00	44.00	12.00
217	12	1511.00	1156.00	70.00	10.00	60.00	125.00
218	12A	1650.00	1281.00	83.00	11.00	72.00	46.00
219	12B	1622.00	1221.00	100.00	19.00	81.00	155.00
220	12C	1838.00	1299.00	110.00	12.00	98.00	112.00
221	12D	1451.00	1038.00	72.00	22.00	50.00	89.00
222	12E	2013.00	1440.00	130.00	16.00	114.00	218.00
223	12F	677.00	518.00	54.00	25.00	29.00	37.00
224	12G	2216.00	1487.00	109.00	16.00	93.00	275.00
225	12H	1704.00	1127.00	94.00	27.00	67.00	217.00
226	12K	2377.00	1711.00	170.00	16.00	154.00	374.00
227	12L	1873.00	1278.00	117.00	14.00	103.00	110.00
228	12M	1667.00	1081.00	94.00	9.00	85.00	154.00
229	12N	1679.00	1059.00	91.00	21.00	70.00	294.00
230	12P	1907.00	1103.00	148.00	9.00	139.00	547.00
231	12R	2100.00	1750.00	88.00	1.00	87.00	58.00
232	13	1747.00	890.00	65.00	11.00	54.00	172.00
233	13A	415.00	258.00	18.00	2.00	16.00	4.00
234	13B	2239.00	1439.00	137.00	15.00	122.00	198.00
235	13C	2734.00	1686.00	154.00	22.00	132.00	372.00
236	13D	1339.00	798.00	75.00	10.00	65.00	322.00
237	13E	2577.00	1708.00	135.00	21.00	114.00	589.00
238	13F	1581.00	938.00	125.00	18.00	107.00	400.00
239	13G	1856.00	1292.00	84.00	8.00	76.00	140.00
240	13H	634.00	460.00	42.00	2.00	40.00	2.00

Case Summaries

	PRECDUV	REGVOT RS	VOTECAS T	DISCARD N	PRESUN DR	PRESOV ER	BLACKRE G
241	13J	1997.00	1348.00	106.00	19.00	87.00	287.00
242	13K	2824.00	2062.00	134.00	19.00	115.00	378.00
243	13L	2124.00	1578.00	84.00	18.00	66.00	300.00
244	13M	2110.00	1519.00	108.00	19.00	89.00	215.00
245	13N	1337.00	861.00	79.00	7.00	72.00	285.00
246	14	1050.00	701.00	60.00	13.00	47.00	34.00
247	14A	763.00	458.00	48.00	6.00	42.00	125.00
248	14B	1182.00	675.00	77.00	3.00	74.00	165.00
249	14C	1155.00	869.00	64.00	16.00	48.00	17.00
250	14D	1505.00	1022.00	110.00	11.00	99.00	201.00
251	14E	1293.00	1015.00	39.00	20.00	19.00	15.00
252	14F	1041.00	821.00	30.00	6.00	24.00	34.00
253	14G	1203.00	829.00	66.00	14.00	52.00	136.00
254	14H	1717.00	1391.00	37.00	12.00	25.00	30.00
255	14J	864.00	654.00	40.00	6.00	34.00	11.00
256	14K	2563.00	1706.00	145.00	19.00	126.00	285.00
257	14L	1349.00	1058.00	56.00	13.00	43.00	7.00
258	14M	937.00	793.00	25.00	8.00	17.00	1.00
259	14N	2310.00	1560.00	69.00	10.00	59.00	283.00
260	14P	1547.00	1369.00	38.00	18.00	20.00	2.00
261	14R	1005.00	875.00	28.00	17.00	11.00	3.00
262	14S	1004.00	724.00	55.00	5.00	50.00	30.00
263	14T	804.00	572.00	41.00	6.00	35.00	118.00
264	14V	944.00	703.00	51.00	15.00	36.00	33.00
265	14W	1085.00	719.00	42.00	11.00	31.00	131.00
266	14X	986.00	727.00	29.00	8.00	21.00	65.00
267	14Y	385.00	243.00	21.00	1.00	20.00	38.00
268	14Z	696.00	516.00	38.00	12.00	26.00	32.00
Total	N	229	229	229	229	229	220

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
1	0001	1648.00	1124.00	9.00	29.00	45.00
2	0002	903.00	611.00	20.00	17.00	2.00
3	0003	2397.00	1723.00	65.00	44.00	17.00
4	0004	729.00	447.00	15.00	8.00	22.00
5	0005	1630.00	1105.00	20.00	12.00	12.00
6	0006	1703.00	1151.00	15.00	27.00	18.00
7	0007	1369.00	1024.00	16.00	21.00	16.00
8	0008	1072.00	784.00	8.00	12.00	20.00
9	0009	958.00	670.00	17.00	13.00	10.00
10	0010	1606.00	1123.00	15.00	22.00	20.00
11	0011	1600.00	1031.00	20.00	19.00	39.00
12	0013	1702.00	1060.00	38.00	20.00	65.00
13	0014	1512.00	1020.00	32.00	26.00	33.00
14	0015	704.00	524.00	10.00	5.00	19.00
15	0016	800.00	525.00	6.00	11.00	20.00
16	0017	1534.00	1045.00	19.00	19.00	77.00
17	0018	1721.00	1086.00	37.00	16.00	82.00
18	0019	617.00	433.00	13.00	7.00	22.00
19	0021	1192.00	822.00	25.00	11.00	32.00
20	0023	1807.00	1254.00	22.00	29.00	8.00
21	0024	1281.00	934.00	4.00	9.00	5.00
22	0025	1196.00	784.00	11.00	8.00	9.00
23	0026	48.00	31.00	2.00	2.00	11.00
24	0027	878.00	496.00	22.00	14.00	.00
25	0028	1324.00	948.00	12.00	10.00	16.00
26	0029	1250.00	916.00	9.00	12.00	7.00
27	0030	2431.00	1709.00	12.00	16.00	13.00
28	0031	963.00	702.00	9.00	6.00	19.00
29	0032	1311.00	906.00	17.00	10.00	12.00
30	0033	1071.00	616.00	27.00	13.00	10.00
31	0034	504.00	291.00	14.00	4.00	25.00
32	0035	784.00	523.00	9.00	6.00	14.00
33	0036	1394.00	952.00	21.00	15.00	10.00
34	0037	439.00	292.00	2.00	5.00	32.00
35	0038	459.00	349.00	5.00	4.00	14.00
36	0039	1171.00	791.00	16.00	9.00	3.00
37	0040	1234.00	824.00	32.00	16.00	37.00
38	0041	1648.00	1125.00	34.00	10.00	45.00
39	0042	1330.00	871.00	14.00	15.00	44.00
40	0043	513.00	338.00	5.00	2.00	50.00
41	0044	478.00	303.00	12.00	8.00	22.00
42	0046	1571.00	921.00	33.00	15.00	19.00
43	0047	232.00	139.00	1.00	1.00	61.00
44	0048	1041.00	646.00	17.00	14.00	4.00
45	0049	1419.00	993.00	5.00	11.00	20.00
46	0050	1464.00	1055.00	8.00	10.00	9.00
47	0051	1799.00	1401.00	9.00	9.00	5.00
48	0052	43.00	27.00	.00	.00	3.00

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
49	0101	2015.00	1415.00	11.00	11.00	1.00
50	0102	1948.00	1344.00	13.00	17.00	49.00
51	0103	4369.00	3136.00	57.00	67.00	29.00
52	0104	1118.00	743.00	6.00	6.00	33.00
53	0105	1261.00	908.00	7.00	6.00	54.00
54	0106	575.00	394.00	20.00	7.00	46.00
55	0107	1069.00	650.00	16.00	17.00	38.00
56	0108	1831.00	1155.00	35.00	14.00	52.00
57	0109	2533.00	1755.00	18.00	31.00	107.00
58	0110	543.00	388.00	6.00	12.00	26.00
59	0111	2754.00	1961.00	33.00	64.00	39.00
60	0112	590.00	446.00	7.00	7.00	35.00
61	0113	937.00	662.00	17.00	22.00	4.00
62	0114	335.00	205.00	2.00	2.00	3.00
63	0115	1469.00	969.00	30.00	22.00	26.00
64	0116	667.00	437.00	11.00	10.00	197.00
65	0117	1571.00	1050.00	40.00	21.00	153.00
66	0118	829.00	541.00	26.00	13.00	776.00
67	0119	1245.00	849.00	19.00	15.00	186.00
68	0120	578.00	380.00	9.00	10.00	335.00
69	0121	739.00	468.00	25.00	6.00	35.00
70	0122	214.00	137.00	6.00	2.00	166.00
71	0123	2490.00	1678.00	67.00	53.00	136.00
72	0124	2530.00	1733.00	30.00	14.00	740.00
73	0125	326.00	197.00	7.00	6.00	29.00
74	0126	1240.00	832.00	44.00	14.00	47.00
75	0127	2193.00	1458.00	90.00	34.00	575.00
76	0128	1481.00	995.00	57.00	16.00	1416.00
77	0129	1251.00	891.00	34.00	22.00	816.00
78	0130	1914.00	1279.00	53.00	9.00	663.00
79	0131	1397.00	982.00	42.00	15.00	887.00
80	0132	244.00	167.00	11.00	1.00	575.00
81	0133	1769.00	1234.00	57.00	11.00	118.00
82	0134	81.00	55.00	3.00	4.00	992.00
83	0135	2478.00	1774.00	94.00	43.00	4.00
84	0136	1675.00	1223.00	46.00	24.00	1639.00
85	0137	681.00	499.00	14.00	6.00	958.00
86	0138	980.00	592.00	32.00	13.00	270.00
87	0139	1624.00	1085.00	61.00	28.00	602.00
88	0140	1740.00	1160.00	76.00	31.00	813.00
89	0141	1271.00	855.00	44.00	14.00	899.00
90	0142	2114.00	1347.00	58.00	42.00	807.00
91	0143	338.00	237.00	6.00	2.00	875.00
92	0144	2057.00	1438.00	48.00	27.00	196.00
93	0145	869.00	620.00	7.00	6.00	969.00
94	0146	1915.00	1389.00	17.00	7.00	23.00
95	0147	864.00	538.00	11.00	6.00	105.00
96	0148	1480.00	1003.00	20.00	16.00	125.00

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
97	0149	894.00	606.00	7.00	6.00	197.00
98	0150	1035.00	680.00	44.00	11.00	45.00
99	0151	775.00	575.00	6.00	7.00	570.00
100	0153	1861.00	1323.00	86.00	22.00	60.00
101	0154	985.00	700.00	15.00	10.00	330.00
102	0155	655.00	488.00	16.00	11.00	1162.00
103	0156	1454.00	1108.00	9.00	11.00	309.00
104	0157	1825.00	1351.00	8.00	10.00	305.00
105	0158	1237.00	888.00	14.00	13.00	153.00
106	0159	1314.00	998.00	42.00	20.00	89.00
107	0160	482.00	342.00	5.00	8.00	280.00
108	0161	1028.00	686.00	40.00	14.00	709.00
109	0164	389.00	265.00	14.00	3.00	45.00
110	0165	530.00	319.00	14.00	8.00	637.00
111	0166	216.00	149.00	9.00	3.00	644.00
112	0169	322.00	191.00	2.00	3.00	160.00
113	0201	1864.00	1044.00	51.00	25.00	142.00
114	0202	1537.00	1063.00	55.00	33.00	121.00
115	0203	1792.00	1277.00	102.00	48.00	99.00
116	0204	400.00	288.00	22.00	2.00	66.00
117	0205	865.00	565.00	47.00	17.00	303.00
118	0206	1809.00	1219.00	49.00	20.00	745.00
119	0207	2526.00	1686.00	37.00	38.00	1721.00
120	0208	2328.00	1653.00	27.00	29.00	391.00
121	0209	1803.00	1251.00	31.00	14.00	785.00
122	0210	1120.00	760.00	22.00	9.00	1353.00
123	0211	1156.00	804.00	38.00	12.00	698.00
124	0213	1678.00	1118.00	64.00	23.00	390.00
125	0214	1928.00	1382.00	70.00	21.00	582.00
126	0216	1824.00	1304.00	54.00	23.00	319.00
127	0234	2140.00	1458.00	104.00	56.00	756.00
128	0265	80.00	48.00	3.00	2.00	483.00
129	0266	213.00	131.00	5.00	5.00	1335.00
130	0269	220.00	140.00	11.00	3.00	1489.00
131	0271	247.00	142.00	5.00	6.00	996.00
132	0341	409.00	255.00	7.00	10.00	1488.00
133	0348	503.00	325.00	18.00	6.00	1494.00
134	0355	30.00	20.00	3.00	.00	1418.00
135	0356	7.00	3.00	.00	.00	1114.00
136	0022	688.00	495.00	1.00	5.00	1312.00
137	0152	784.00	548.00	29.00	6.00	1685.00
138	0162	818.00	559.00	36.00	13.00	2727.00
139	0163	453.00	324.00	7.00	3.00	1523.00
140	0212	938.00	603.00	28.00	16.00	1400.00
141	0215	1337.00	920.00	46.00	12.00	1835.00
142	0217	1684.00	1230.00	59.00	18.00	1527.00
143	0218	1460.00	1008.00	86.00	25.00	1492.00
144	0219	1158.00	806.00	67.00	34.00	1627.00

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
145	0220	1486.00	1057.00	77.00	27.00	1421.00
146	0221	1877.00	1313.00	55.00	29.00	637.00
147	0222	2984.00	2141.00	122.00	42.00	479.00
148	0223	1881.00	1285.00	79.00	24.00	1597.00
149	0224	1742.00	1206.00	75.00	22.00	789.00
150	0225	2185.00	1466.00	103.00	31.00	1927.00
151	0226	1716.00	1231.00	113.00	34.00	1249.00
152	0227	1782.00	1212.00	99.00	16.00	62.00
153	0228	1913.00	1354.00	80.00	35.00	985.00
154	0229	2861.00	1804.00	92.00	49.00	661.00
155	0230	2665.00	1755.00	54.00	25.00	2069.00
156	0231	1672.00	1160.00	54.00	21.00	1688.00
157	0232	2920.00	1968.00	114.00	69.00	1085.00
158	0233	1109.00	745.00	48.00	13.00	1132.00
159	0235	2280.00	1375.00	85.00	68.00	1112.00
160	0236	75.00	45.00	4.00	1.00	1217.00
161	0237	1145.00	756.00	55.00	40.00	1158.00
162	0238	698.00	476.00	33.00	19.00	383.00
163	0239	2997.00	1962.00	108.00	34.00	902.00
164	0240	1987.00	1408.00	99.00	29.00	1061.00
165	0241	1520.00	1008.00	47.00	31.00	1821.00
166	0242	1789.00	1249.00	104.00	21.00	1402.00
167	0243	1400.00	970.00	60.00	13.00	735.00
168	0244	1643.00	1025.00	60.00	11.00	2127.00
169	0245	1371.00	949.00	53.00	25.00	986.00
170	0246	1794.00	1155.00	58.00	22.00	1476.00
171	0247	1580.00	1121.00	87.00	27.00	1269.00
172	0248	1988.00	1279.00	97.00	38.00	524.00
173	0249	1973.00	1447.00	132.00	48.00	1124.00
174	0250	1470.00	998.00	101.00	21.00	1047.00
175	0251	843.00	606.00	40.00	13.00	1043.00
176	0252	2233.00	1562.00	127.00	49.00	1024.00
177	0253	1105.00	806.00	52.00	25.00	1539.00
178	0254	1614.00	1090.00	74.00	26.00	1392.00
179	0255	1323.00	868.00	91.00	22.00	1908.00
180	0256	811.00	579.00	18.00	23.00	1190.00
181	0257	1163.00	759.00	70.00	26.00	50.00
182	0258	1116.00	673.00	54.00	14.00	64.00
183	0259	1349.00	864.00	59.00	30.00	802.00
184	0260	1074.00	696.00	41.00	9.00	1150.00
185	0261	1613.00	971.00	68.00	21.00	213.00
186	0262	1455.00	894.00	69.00	24.00	1518.00
187	0263	2000.00	1302.00	90.00	46.00	240.00
188	0264	1286.00	802.00	60.00	28.00	11.00
189	0267	1318.00	845.00	71.00	33.00	6.00
190	0268	1584.00	1001.00	55.00	8.00	341.00
191	0270	1752.00	1207.00	81.00	18.00	458.00
192	0301	1395.00	1015.00	18.00	17.00	61.00

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
193	0302	1438.00	972.00	13.00	9.00	65.00
194	0303	2298.00	1683.00	24.00	21.00	20.00
195	0304	2701.00	1909.00	60.00	28.00	9.00
196	0305	2019.00	1493.00	13.00	16.00	15.00
197	0306	1302.00	944.00	16.00	9.00	12.00
198	0307	1788.00	1294.00	19.00	10.00	48.00
199	0308	1101.00	804.00	8.00	5.00	17.00
200	0309	2786.00	1866.00	49.00	37.00	674.00
201	0310	1836.00	1220.00	32.00	25.00	1.00
202	0311	2234.00	1581.00	52.00	24.00	4.00
203	0312	1446.00	959.00	30.00	19.00	3.00
204	0313	1044.00	628.00	42.00	18.00	2.00
205	0314	1369.00	1000.00	25.00	11.00	7.00
206	0315	1781.00	1315.00	32.00	19.00	7.00
207	0316	1503.00	1094.00	26.00	29.00	19.00
208	0317	1314.00	918.00	21.00	8.00	21.00
209	0318	1353.00	932.00	22.00	9.00	28.00
210	0319	1101.00	782.00	10.00	9.00	10.00
211	0320	2346.00	1635.00	40.00	29.00	10.00
212	0321	2738.00	1859.00	44.00	27.00	2.00
213	0322	2856.00	1883.00	50.00	49.00	14.00
214	0323	1589.00	1154.00	27.00	20.00	29.00
215	0324	1342.00	933.00	35.00	22.00	7.00
216	0325	1230.00	862.00	30.00	13.00	14.00
217	0326	3093.00	2206.00	55.00	43.00	9.00
218	0327	1628.00	966.00	29.00	26.00	8.00
219	0328	2222.00	1566.00	32.00	36.00	34.00
220	0329	2249.00	1722.00	42.00	26.00	9.00
221	0330	2127.00	1467.00	40.00	22.00	27.00
222	0331	2566.00	1846.00	48.00	50.00	219.00
223	0332	1860.00	1341.00	33.00	24.00	8.00
224	0333	2111.00	1496.00	52.00	48.00	3.00
225	0334	1492.00	1015.00	24.00	14.00	5.00
226	0335	1598.00	1088.00	33.00	6.00	19.00
227	0336	1840.00	1196.00	36.00	23.00	33.00
228	0337	1380.00	965.00	22.00	30.00	1.00
229	0338	2171.00	1502.00	56.00	18.00	6.00
230	0339	2954.00	1976.00	61.00	32.00	39.00
231	0340	2998.00	2080.00	75.00	42.00	16.00
232	0342	2254.00	1499.00	44.00	25.00	4.00
233	0343	1862.00	1240.00	18.00	15.00	10.00
234	0344	1735.00	1217.00	19.00	7.00	11.00
235	0345	1591.00	1195.00	22.00	11.00	8.00
236	0346	1449.00	1109.00	19.00	14.00	24.00
237	0347	1103.00	782.00	16.00	13.00	433.00
238	0349	3579.00	2550.00	76.00	44.00	621.00
239	0350	1137.00	844.00	13.00	5.00	104.00
240	0351	2550.00	1728.00	43.00	19.00	8.00

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
241	0352	4451.00	3334.00	36.00	39.00	1.00
242	0353	2693.00	1963.00	47.00	21.00	1.00
243	0354	924.00	659.00	13.00	11.00	.00
244	0357	1333.00	965.00	14.00	10.00	2.00
245	0358	2320.00	1658.00	42.00	28.00	520.00
246	0359	2784.00	1826.00	50.00	29.00	16.00
247	0360	1674.00	1176.00	20.00	20.00	6.00
248	0361	1094.00	763.00	17.00	17.00	6.00
249	0362	1628.00	1151.00	22.00	28.00	12.00
250	0363	1596.00	1040.00	28.00	12.00	15.00
251	0364	1211.00	849.00	21.00	15.00	136.00
252	0365	2741.00	1921.00	24.00	16.00	292.00
253	0366	424.00	310.00	2.00	2.00	12.00
254	0367	1284.00	903.00	20.00	10.00	2.00
255	0368	1961.00	1350.00	30.00	19.00	13.00
256	0401	2070.00	1310.00	12.00	7.00	97.00
257	0402	3400.00	2565.00	50.00	32.00	18.00
258	0403	2627.00	1770.00	49.00	19.00	45.00
259	0404	1970.00	1455.00	27.00	11.00	9.00
260	0405	1718.00	1159.00	21.00	15.00	7.00
261	0406	1520.00	979.00	29.00	19.00	27.00
262	0407	1329.00	944.00	24.00	11.00	6.00
263	0408	2500.00	1615.00	28.00	23.00	86.00
264	0409	1029.00	667.00	14.00	8.00	2.00
265	0410	3230.00	2080.00	69.00	24.00	7.00
266	0411	2931.00	1849.00	42.00	28.00	26.00
267	0412	3006.00	2172.00	24.00	22.00	12.00
268	0413	3281.00	2374.00	29.00	36.00	6.00
269	0414	3043.00	2144.00	40.00	25.00	15.00
270	0415	2461.00	1645.00	37.00	24.00	10.00
271	0416	2501.00	1665.00	28.00	30.00	12.00
272	0417	2398.00	1649.00	18.00	13.00	52.00
273	0418	1484.00	1072.00	20.00	14.00	7.00
274	0419	1163.00	862.00	17.00	5.00	1.00
275	0420	1931.00	1438.00	20.00	27.00	3.00
276	0421	2311.00	1680.00	23.00	19.00	3.00
277	0422	1492.00	1093.00	20.00	20.00	.00
278	0423	1695.00	1284.00	15.00	21.00	2.00
279	0424	1658.00	1195.00	31.00	22.00	2.00
280	0425	1932.00	1321.00	34.00	35.00	4.00
281	0426	1544.00	1082.00	19.00	24.00	8.00
282	0427	1473.00	1096.00	18.00	17.00	8.00
283	0428	1444.00	1005.00	36.00	18.00	2.00
284	0429	1365.00	995.00	8.00	9.00	8.00
285	0430	2044.00	1460.00	39.00	18.00	9.00
286	0431	1199.00	850.00	17.00	4.00	2.00
287	0432	1439.00	1012.00	16.00	7.00	3.00
288	0433	1660.00	1226.00	26.00	15.00	1.00

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
289	0434	1806.00	1319.00	25.00	17.00	5.00
290	0435	1983.00	1391.00	38.00	27.00	8.00
291	0436	1902.00	1366.00	34.00	22.00	4.00
292	0437	1603.00	1133.00	25.00	21.00	3.00
293	0438	2331.00	1681.00	47.00	32.00	9.00
294	0439	3159.00	2360.00	33.00	25.00	13.00
295	0440	1728.00	1265.00	21.00	14.00	2.00
296	0441	1376.00	968.00	9.00	6.00	9.00
297	0442	743.00	518.00	16.00	10.00	1.00
298	0443	868.00	643.00	14.00	7.00	4.00
299	0444	1763.00	1224.00	14.00	21.00	5.00
300	0445	134.00	85.00	1.00	1.00	.00
301	0446	324.00	234.00	6.00	4.00	2.00
302	0447	1508.00	987.00	16.00	23.00	20.00
303	0448	1383.00	918.00	17.00	15.00	11.00
304	0449	1119.00	804.00	9.00	10.00	3.00
305	0450	3096.00	2177.00	14.00	19.00	60.00
306	0451	1390.00	1052.00	11.00	13.00	6.00
307	0501	1842.00	1136.00	58.00	28.00	1386.00
308	0502	1628.00	1086.00	41.00	29.00	652.00
309	0503	834.00	600.00	22.00	14.00	40.00
310	0504	2329.00	1559.00	31.00	23.00	667.00
311	0505	2082.00	1290.00	76.00	47.00	1709.00
312	0506	228.00	150.00	6.00	1.00	77.00
313	0507	1131.00	744.00	57.00	25.00	1087.00
314	0508	1736.00	1079.00	95.00	25.00	1674.00
315	0509	1446.00	987.00	28.00	24.00	4.00
316	0510	800.00	582.00	18.00	7.00	1.00
317	0511	1545.00	1003.00	89.00	22.00	1477.00
318	0512	1135.00	788.00	60.00	22.00	1103.00
319	0513	677.00	469.00	36.00	14.00	652.00
320	0514	1015.00	697.00	55.00	19.00	853.00
321	0515	592.00	364.00	17.00	5.00	404.00
322	0516	1189.00	820.00	7.00	11.00	132.00
323	0517	1534.00	812.00	22.00	12.00	820.00
324	0518	1457.00	955.00	85.00	18.00	941.00
325	0519	1600.00	1094.00	86.00	19.00	1393.00
326	0520	1077.00	721.00	52.00	21.00	1038.00
327	0521	2001.00	1333.00	81.00	20.00	1898.00
328	0522	1694.00	1127.00	93.00	33.00	1582.00
329	0523	2037.00	1324.00	109.00	25.00	1795.00
330	0524	897.00	627.00	18.00	10.00	21.00
331	0525	1104.00	716.00	32.00	15.00	15.00
332	0526	2682.00	1666.00	52.00	27.00	240.00
333	0527	2054.00	1300.00	81.00	11.00	201.00
334	0528	526.00	318.00	13.00	7.00	82.00
335	0529	2011.00	1216.00	91.00	23.00	730.00
336	0530	1226.00	708.00	27.00	11.00	258.00

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
337	0531	1380.00	764.00	62.00	17.00	988.00
338	0532	448.00	297.00	18.00	7.00	238.00
339	0533	1395.00	858.00	63.00	24.00	1294.00
340	0534	780.00	383.00	20.00	7.00	369.00
341	0535	1259.00	820.00	90.00	15.00	1174.00
342	0536	288.00	174.00	10.00	2.00	204.00
343	0537	1401.00	850.00	51.00	17.00	215.00
344	0538	1760.00	1149.00	44.00	12.00	213.00
345	0539	538.00	381.00	2.00	7.00	7.00
346	0541	921.00	555.00	3.00	2.00	42.00
347	0542	1922.00	277.00	12.00	4.00	264.00
348	0543	2177.00	1358.00	63.00	41.00	58.00
349	0544	602.00	388.00	3.00	3.00	52.00
350	0545	2074.00	1391.00	57.00	17.00	14.00
351	0546	25.00	6.00	.00	.00	3.00
352	0547	2041.00	1372.00	57.00	14.00	14.00
353	0548	1521.00	1096.00	33.00	15.00	6.00
354	0549	1374.00	968.00	28.00	17.00	4.00
355	0550	1677.00	1184.00	31.00	16.00	8.00
356	0551	1368.00	924.00	27.00	8.00	22.00
357	0552	559.00	400.00	13.00	5.00	2.00
358	0553	1834.00	1222.00	25.00	10.00	4.00
359	0554	1990.00	1386.00	31.00	17.00	5.00
360	0555	2286.00	1622.00	48.00	22.00	8.00
361	0556	2891.00	1903.00	57.00	28.00	19.00
362	0557	1969.00	1355.00	31.00	27.00	4.00
363	0558	1703.00	1171.00	29.00	17.00	9.00
364	0559	1786.00	1291.00	19.00	28.00	8.00
365	0560	2240.00	1597.00	41.00	11.00	9.00
366	0561	811.00	551.00	10.00	2.00	6.00
367	0562	2662.00	1825.00	46.00	18.00	5.00
368	0563	1763.00	1158.00	46.00	19.00	5.00
369	0564	1756.00	1035.00	48.00	19.00	15.00
370	0565	2049.00	1293.00	44.00	15.00	15.00
371	0566	2506.00	1527.00	65.00	40.00	43.00
372	0567	1235.00	899.00	19.00	10.00	10.00
373	0568	365.00	245.00	3.00	2.00	4.00
374	0569	3628.00	2546.00	24.00	37.00	39.00
375	0570	1424.00	976.00	21.00	4.00	9.00
376	0571	2042.00	1445.00	32.00	18.00	8.00
377	0572	1256.00	881.00	21.00	11.00	5.00
378	0573	1683.00	1181.00	24.00	15.00	23.00
379	0574	1969.00	1381.00	30.00	13.00	12.00
380	0575	2675.00	1823.00	49.00	25.00	8.00
381	0576	2235.00	1569.00	48.00	17.00	8.00
382	0577	1512.00	1047.00	20.00	13.00	21.00
383	0578	2622.00	1697.00	43.00	21.00	12.00
384	0579	754.00	539.00	14.00	5.00	6.00

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
385	0580	1728.00	1211.00	30.00	7.00	10.00
386	0581	1876.00	1352.00	10.00	9.00	9.00
387	0582	1710.00	1203.00	8.00	11.00	25.00
388	0583	1621.00	1072.00	11.00	8.00	57.00
389	0584	1215.00	862.00	64.00	17.00	1018.00
390	0585	933.00	633.00	41.00	19.00	834.00
391	0586	1383.00	1020.00	5.00	9.00	16.00
392	0587	1019.00	716.00	2.00	1.00	23.00
393	0588	130.00	59.00	5.00	2.00	2.00
394	0589	87.00	53.00	1.00	.00	13.00
395	0590	114.00	65.00	2.00	4.00	38.00
396	0591	898.00	572.00	37.00	18.00	113.00
397	0592	35.00	19.00	1.00	.00	34.00
398	0593	1049.00	672.00	23.00	11.00	22.00
399	0594	145.00	114.00	4.00	2.00	2.00
400	0595	142.00	104.00	2.00	1.00	.00
401	0596	243.00	180.00	6.00	2.00	.00
402	0597	208.00	136.00	5.00	1.00	.00
403	0598	104.00	65.00	1.00	.00	3.00
404	0601	1558.00	1129.00	12.00	8.00	1.00
405	0602	1255.00	922.00	12.00	8.00	5.00
406	0603	1334.00	907.00	6.00	12.00	5.00
407	0604	1410.00	1072.00	14.00	7.00	11.00
408	0605	2000.00	1500.00	11.00	11.00	8.00
409	0606	1038.00	733.00	8.00	10.00	78.00
410	0607	1378.00	1013.00	5.00	6.00	6.00
411	0608	1748.00	1290.00	3.00	7.00	4.00
412	0609	1281.00	882.00	7.00	7.00	7.00
413	0610	134.00	93.00	1.00	.00	.00
414	0611	1708.00	1259.00	6.00	11.00	4.00
415	0612	1710.00	1080.00	6.00	2.00	37.00
416	0613	1235.00	932.00	3.00	10.00	8.00
417	0614	1215.00	928.00	.00	6.00	7.00
418	0615	1090.00	800.00	1.00	4.00	3.00
419	0616	703.00	537.00	3.00	4.00	6.00
420	0617	2280.00	1668.00	6.00	6.00	13.00
421	0618	639.00	447.00	1.00	5.00	4.00
422	0619	1905.00	1442.00	8.00	6.00	15.00
423	0620	1575.00	1095.00	15.00	12.00	9.00
424	0621	2215.00	1463.00	93.00	40.00	1569.00
425	0622	1356.00	1016.00	6.00	7.00	16.00
426	0623	1378.00	1004.00	7.00	5.00	21.00
427	0624	1177.00	886.00	4.00	2.00	12.00
428	0625	1616.00	1142.00	11.00	8.00	39.00
429	0626	1038.00	775.00	4.00	.00	11.00
430	0627	1602.00	1204.00	3.00	12.00	21.00
431	0628	1974.00	1507.00	5.00	5.00	8.00
432	0629	471.00	357.00	.00	2.00	2.00

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
433	0630	745.00	536.00	1.00	1.00	16.00
434	0631	1340.00	1016.00	4.00	3.00	15.00
435	0632	1484.00	1117.00	8.00	8.00	22.00
436	0633	1376.00	996.00	13.00	7.00	17.00
437	0634	404.00	303.00	23.00	7.00	283.00
438	0635	199.00	138.00	.00	2.00	1.00
439	0636	1.00	.00	.00	.00	.00
440	0637	47.00	37.00	.00	.00	.00
441	0638	17.00	14.00	.00	.00	3.00
442	0639	29.00	20.00	.00	1.00	.00
443	0640	42.00	34.00	.00	2.00	.00
444	0641	47.00	37.00	.00	.00	.00
445	0642	404.00	283.00	1.00	.00	14.00
446	0643	158.00	117.00	.00	.00	.00
447	0644	2.00	2.00	.00	.00	.00
448	0701	2057.00	1341.00	17.00	7.00	24.00
449	0702	3396.00	2412.00	22.00	23.00	77.00
450	0703	3029.00	2018.00	33.00	12.00	96.00
451	0704	2148.00	1452.00	31.00	12.00	32.00
452	0705	1872.00	1235.00	19.00	13.00	22.00
453	0706	2119.00	1482.00	19.00	17.00	9.00
454	0707	617.00	456.00	7.00	7.00	3.00
455	0708	128.00	90.00	3.00	.00	1.00
456	0709	2181.00	1561.00	49.00	17.00	7.00
457	0710	1643.00	1163.00	25.00	8.00	6.00
458	0711	2327.00	1530.00	23.00	19.00	58.00
459	0712	1878.00	1326.00	18.00	16.00	11.00
460	0713	2041.00	1422.00	30.00	19.00	7.00
461	0714	1760.00	1270.00	21.00	14.00	8.00
462	0715	1920.00	1400.00	20.00	21.00	.00
463	0716	1254.00	921.00	20.00	11.00	1.00
464	0717	2087.00	1470.00	20.00	15.00	32.00
465	0718	662.00	483.00	5.00	10.00	10.00
466	0719	1931.00	1297.00	22.00	20.00	68.00
467	0720	1623.00	1201.00	9.00	11.00	2.00
468	0721	2667.00	1956.00	22.00	23.00	62.00
469	0722	512.00	350.00	5.00	6.00	31.00
470	0723	1090.00	797.00	5.00	5.00	7.00
471	0724	1768.00	1294.00	12.00	19.00	40.00
472	0725	1846.00	1365.00	17.00	14.00	12.00
473	0726	2222.00	1623.00	19.00	13.00	14.00
474	0727	1142.00	846.00	7.00	13.00	22.00
475	0728	2216.00	1412.00	16.00	18.00	57.00
476	0729	1735.00	1088.00	14.00	18.00	16.00
477	0730	1824.00	1225.00	12.00	6.00	43.00
478	0731	1590.00	1159.00	10.00	18.00	7.00
479	0732	1512.00	999.00	18.00	11.00	10.00
480	0733	2593.00	1772.00	24.00	17.00	95.00

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
481	0734	1732.00	1238.00	19.00	13.00	54.00
482	0735	1257.00	895.00	6.00	8.00	30.00
483	0736	1719.00	1057.00	27.00	17.00	73.00
484	0737	1262.00	741.00	23.00	16.00	89.00
485	0738	3851.00	2660.00	36.00	22.00	242.00
486	0739	2584.00	1729.00	26.00	24.00	156.00
487	0740	2514.00	1641.00	18.00	14.00	169.00
488	0741	2293.00	1629.00	15.00	12.00	128.00
489	0742	1547.00	1104.00	14.00	12.00	120.00
490	0743	1160.00	815.00	11.00	6.00	61.00
491	0744	2841.00	1904.00	18.00	10.00	129.00
492	0745	2675.00	1929.00	24.00	28.00	91.00
493	0746	993.00	720.00	5.00	8.00	20.00
494	0747	2074.00	1395.00	17.00	19.00	85.00
495	0748	1584.00	1120.00	8.00	11.00	19.00
496	0749	1584.00	1159.00	9.00	8.00	49.00
497	0750	2002.00	1479.00	8.00	13.00	38.00
498	0751	1478.00	1109.00	8.00	6.00	24.00
499	0752	1547.00	1140.00	13.00	6.00	34.00
500	0753	3240.00	2291.00	16.00	13.00	252.00
501	0754	2494.00	1807.00	11.00	10.00	48.00
502	0755	387.00	285.00	.00	.00	10.00
503	0756	2311.00	1606.00	20.00	21.00	279.00
504	0757	3891.00	2748.00	37.00	25.00	428.00
505	0758	2588.00	1792.00	32.00	15.00	161.00
506	0759	4212.00	3007.00	53.00	33.00	429.00
507	0760	139.00	96.00	.00	.00	1.00
508	0761	11.00	8.00	.00	.00	.00
509	0762	3608.00	2281.00	39.00	29.00	224.00
510	0763	1657.00	1110.00	22.00	19.00	42.00
511	0764	2267.00	1566.00	27.00	20.00	59.00
512	0765	1239.00	755.00	11.00	14.00	95.00
513	0766	2548.00	1649.00	17.00	17.00	209.00
514	0767	2106.00	1258.00	16.00	10.00	190.00
515	0768	221.00	161.00	2.00	4.00	12.00
516	0769	1224.00	848.00	6.00	7.00	44.00
517	0770	1670.00	1173.00	48.00	12.00	19.00
518	0771	1700.00	1173.00	10.00	27.00	73.00
519	0772	1830.00	1143.00	29.00	8.00	29.00
520	0773	2156.00	1488.00	20.00	13.00	19.00
521	0774	1494.00	892.00	19.00	10.00	97.00
522	0775	3337.00	2275.00	33.00	29.00	150.00
523	0776	3251.00	2202.00	54.00	21.00	282.00
524	0801	1567.00	1089.00	51.00	42.00	1468.00
525	0802	1756.00	1249.00	46.00	31.00	1707.00
526	0803	1695.00	1225.00	75.00	44.00	1620.00
527	0804	1783.00	1256.00	9.00	8.00	106.00
528	0805	719.00	473.00	5.00	3.00	112.00

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
529	0806	1211.00	864.00	6.00	7.00	26.00
530	0807	1184.00	875.00	8.00	7.00	51.00
531	0808	1647.00	1211.00	3.00	4.00	29.00
532	0809	503.00	372.00	1.00	1.00	6.00
533	0810	1904.00	1409.00	8.00	6.00	16.00
534	0811	1066.00	739.00	9.00	6.00	216.00
535	0812	1739.00	1131.00	33.00	17.00	629.00
536	0813	2127.00	1509.00	58.00	18.00	1132.00
537	0814	2314.00	1471.00	20.00	13.00	407.00
538	0815	1357.00	897.00	31.00	8.00	262.00
539	0816	1610.00	1056.00	38.00	16.00	998.00
540	0817	2196.00	1458.00	50.00	24.00	1304.00
541	0818	1424.00	957.00	87.00	33.00	1343.00
542	0819	1205.00	836.00	9.00	10.00	96.00
543	0820	2703.00	1867.00	6.00	11.00	193.00
544	0821	2226.00	1537.00	15.00	11.00	184.00
545	0822	1980.00	1362.00	29.00	18.00	113.00
546	0823	2030.00	1294.00	21.00	13.00	201.00
547	0824	2049.00	1321.00	23.00	13.00	173.00
548	0825	2425.00	1555.00	27.00	24.00	307.00
549	0826	673.00	448.00	34.00	3.00	626.00
550	0827	2752.00	1621.00	92.00	46.00	1126.00
551	0828	1894.00	1159.00	42.00	21.00	860.00
552	0829	2260.00	1405.00	51.00	12.00	443.00
553	0830	579.00	439.00	7.00	4.00	85.00
554	0831	2042.00	1187.00	55.00	19.00	586.00
555	0832	1268.00	834.00	10.00	15.00	195.00
556	0833	1766.00	1107.00	103.00	31.00	1624.00
557	0834	1540.00	920.00	68.00	13.00	1349.00
558	0835	275.00	186.00	4.00	1.00	43.00
559	0836	2297.00	1434.00	31.00	18.00	44.00
560	0837	1828.00	1295.00	7.00	16.00	86.00
561	0838	735.00	441.00	20.00	10.00	192.00
562	0839	1518.00	895.00	31.00	19.00	384.00
563	0840	352.00	246.00	2.00	1.00	37.00
564	0841	1363.00	758.00	29.00	12.00	305.00
565	0842	225.00	158.00	6.00	1.00	50.00
566	0843	413.00	288.00	6.00	2.00	99.00
567	0844	25.00	15.00	.00	.00	2.00
568	0845	587.00	412.00	5.00	5.00	141.00
569	0846	146.00	83.00	4.00	2.00	64.00
570	0847	1590.00	1031.00	10.00	7.00	191.00
571	0848	203.00	121.00	2.00	1.00	3.00
572	0849	74.00	48.00	1.00	3.00	10.00
573	0850	22.00	14.00	1.00	.00	.00
574	0851	195.00	151.00	.00	3.00	2.00
575	0901	1471.00	965.00	10.00	10.00	19.00
576	0902	1923.00	1332.00	6.00	7.00	27.00

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
577	0903	854.00	478.00	44.00	12.00	558.00
578	0904	1319.00	783.00	30.00	12.00	198.00
579	0905	2003.00	1183.00	60.00	31.00	934.00
580	0906	316.00	171.00	6.00	.00	99.00
581	0907	2043.00	1192.00	16.00	14.00	246.00
582	0908	214.00	125.00	5.00	1.00	41.00
583	0909	1339.00	687.00	21.00	9.00	387.00
584	0910	2775.00	1562.00	75.00	23.00	500.00
585	0911	1144.00	577.00	25.00	9.00	143.00
586	0912	1605.00	1028.00	27.00	14.00	120.00
587	0913	1602.00	1059.00	14.00	16.00	51.00
588	0914	498.00	343.00	2.00	4.00	13.00
589	0915	806.00	549.00	8.00	6.00	43.00
590	0916	999.00	533.00	14.00	5.00	117.00
591	0917	238.00	104.00	4.00	1.00	41.00
592	0918	1683.00	767.00	29.00	12.00	328.00
593	0919	778.00	481.00	4.00	6.00	44.00
594	0920	1214.00	606.00	17.00	10.00	841.00
595	0921	133.00	83.00	1.00	3.00	10.00
596	0922	1949.00	1137.00	65.00	34.00	1630.00
597	0923	779.00	384.00	11.00	5.00	129.00
598	0924	121.00	72.00	.00	2.00	5.00
599	0925	244.00	156.00	2.00	1.00	29.00
600	0926	403.00	262.00	2.00	1.00	13.00
601	0927	284.00	177.00	3.00	3.00	14.00
602	0928	896.00	490.00	15.00	9.00	283.00
603	0929	417.00	229.00	11.00	2.00	139.00
604	0930	5.00	3.00	.00	1.00	5.00
605	0931	326.00	183.00	15.00	2.00	45.00
606	0932	90.00	65.00	.00	2.00	1.00
607	0933	194.00	82.00	4.00	2.00	51.00
608	0934	191.00	101.00	3.00	2.00	55.00
609	0935	234.00	120.00	5.00	2.00	93.00
610	0936	468.00	279.00	9.00	4.00	58.00
611	0937	112.00	80.00	2.00	1.00	9.00
612	0938	757.00	369.00	26.00	8.00	54.00
613	0939	5.00	3.00	.00	.00	.00
614	0940	1292.00	642.00	21.00	8.00	151.00
615	N401	.00	42.00	.00	2.00	.
616	N402	.00	.00	.00	.00	.
617	N403	.00	13.00	.00	.00	.
618	N404	.00	50.00	.00	5.00	.
619	N405	.00	151.00	.00	4.00	.
620	N406	.00	9.00	.00	.00	.
621	N407	.00	1.00	.00	.00	.
622	N408	.00	1.00	.00	.00	.
623	N409	.00	5.00	.00	1.00	.
624	N410	.00	2.00	.00	.00	.

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
625	N411	.00	3.00	.00	.00	.
626	N412	.00	.00	.00	.00	.
627	N413	.00	12.00	.00	.00	.
628	N414	.00	.00	.00	.00	.
629	N415	.00	3.00	.00	.00	.
630	N416	.00	.00	.00	.00	.
631	N417	.00	.00	.00	.00	.
632	N418	.00	7.00	.00	.00	.
633	N419	.00	1.00	.00	.00	.
634	N420	.00	.00	.00	.00	.
635	N421	.00	12.00	.00	.00	.
636	N422	.00	15.00	.00	.00	.
637	N423	.00	1.00	.00	.00	.
638	N424	.00	.00	.00	.00	.
639	N425	.00	2.00	.00	.00	.
640	N426	.00	11.00	.00	1.00	.
641	N427	.00	.00	.00	.00	.
642	N428	.00	.00	.00	.00	.
643	N429	.00	3.00	.00	1.00	.
644	N430	.00	1.00	.00	.00	.
645	N431	.00	.00	.00	.00	.
646	N432	.00	3.00	.00	.00	.
647	N433	.00	11.00	.00	.00	.
648	N434	.00	6.00	.00	.00	.
649	N435	.00	.00	.00	.00	.
650	N436	.00	5.00	.00	.00	.
651	N437	.00	.00	.00	.00	.
652	N438	.00	1.00	.00	.00	.
653	N439	.00	1.00	.00	.00	.
654	N440	.00	3.00	.00	1.00	.
655	N441	.00	2.00	.00	.00	.
656	N442	.00	2.00	.00	.00	.
657	N443	.00	1.00	.00	.00	.
658	N444	.00	.00	.00	.00	.
659	N445	.00	5.00	.00	.00	.
660	N446	.00	.00	.00	.00	.
661	N447	.00	4.00	.00	.00	.
662	N448	.00	3.00	.00	.00	.
663	N449	.00	2.00	.00	.00	.
664	N450	.00	.00	.00	.00	.
665	N451	.00	2.00	.00	.00	.
666	N452	.00	7.00	.00	.00	.
667	N453	.00	.00	.00	.00	.
668	N454	.00	.00	.00	.00	.
669	N455	.00	.00	.00	.00	.
670	N456	.00	.00	.00	.00	.
671	N457	.00	2.00	.00	.00	.
672	N458	.00	1.00	.00	.00	.

800

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
673	N459	.00	.00	.00	.00	.
674	N460	.00	.00	.00	.00	.
675	N461	.00	.00	.00	.00	.
676	N462	.00	.00	.00	.00	.
677	N463	.00	.00	.00	.00	.
678	N464	.00	1.00	.00	.00	.
679	N465	.00	.00	.00	.00	.
680	N466	.00	.00	.00	.00	.
681	N001	.00	2662.00	14.00	115.00	.
682	N002	.00	95.00	.00	5.00	.
683	N003	.00	824.00	4.00	33.00	.
684	N004	.00	3.00	.00	.00	.
685	N005	.00	1238.00	8.00	61.00	.
686	N006	.00	2813.00	13.00	86.00	.
687	N007	.00	398.00	.00	12.00	.
688	N008	.00	1281.00	4.00	51.00	.
689	N508	.00	857.00	17.00	30.00	.
690	N009	.00	2551.00	55.00	113.00	.
691	N010	.00	285.00	6.00	14.00	.
692	N011	.00	114.00	3.00	3.00	.
693	N012	.00	418.00	8.00	17.00	.
694	N013	.00	238.00	3.00	8.00	.
695	N014	.00	184.00	1.00	4.00	.
696	N015	.00	754.00	4.00	15.00	.
697	N016	.00	357.00	4.00	10.00	.
698	N017	.00	255.00	8.00	9.00	.
699	N018	.00	119.00	2.00	4.00	.
700	N019	.00	2.00	.00	.00	.
701	N020	.00	481.00	15.00	40.00	.
702	N021	.00	6.00	.00	.00	.
703	N022	.00	2229.00	5.00	61.00	.
704	N023	.00	3149.00	23.00	71.00	.
705	N024	.00	67.00	.00	.00	.
706	N025	.00	94.00	.00	2.00	.
707	N026	.00	141.00	.00	1.00	.
708	N027	.00	76.00	1.00	3.00	.
709	N028	.00	25.00	1.00	.00	.
710	N029	.00	1629.00	6.00	43.00	.
711	N030	.00	442.00	1.00	12.00	.
712	N031	.00	1096.00	3.00	30.00	.
713	N032	.00	113.00	.00	3.00	.
714	N033	.00	1643.00	7.00	50.00	.
715	N034	.00	1578.00	7.00	41.00	.
716	N035	.00	20.00	.00	.00	.
717	N036	.00	328.00	3.00	20.00	.
718	N037	.00	46.00	.00	.00	.
719	N038	.00	188.00	1.00	5.00	.
720	N039	.00	208.00	7.00	24.00	.

801

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
721	N040	.00	71.00	.00	4.00	.
722	N041	.00	1283.00	10.00	40.00	.
723	N042	.00	80.00	.00	5.00	.
724	N043	.00	19.00	.00	.00	.
725	N044	.00	25.00	2.00	1.00	.
726	N045	.00	22.00	.00	1.00	.
727	N046	.00	57.00	.00	7.00	.
728	N047	.00	63.00	.00	1.00	.
729	N048	.00	9.00	1.00	.00	.
730	N535	.00	362.00	17.00	11.00	.
731	N537	.00	39.00	.00	2.00	.
732	N538	.00	1119.00	8.00	37.00	.
733	N539	.00	362.00	16.00	16.00	.
734	N540	.00	92.00	1.00	.00	.
735	N541	.00	796.00	7.00	18.00	.
736	N542	.00	76.00	1.00	3.00	.
737	N543	.00	14.00	.00	.00	.
738	N544	.00	35.00	3.00	.00	.
739	N545	.00	29.00	.00	.00	.
740	N546	.00	28.00	1.00	3.00	.
741	N547	.00	34.00	.00	1.00	.
742	N548	.00	11.00	.00	.00	.
743	N049	.00	136.00	1.00	2.00	.
744	N050	.00	266.00	.00	3.00	.
745	N051	.00	129.00	.00	2.00	.
746	N052	.00	111.00	.00	1.00	.
747	N053	.00	783.00	6.00	19.00	.
748	N054	.00	1149.00	3.00	23.00	.
749	N055	.00	17.00	.00	1.00	.
750	N056	.00	1303.00	5.00	26.00	.
751	N057	.00	10.00	.00	.00	.
752	N058	.00	464.00	1.00	12.00	.
753	N059	.00	25.00	.00	.00	.
754	N060	.00	248.00	.00	4.00	.
755	N061	.00	119.00	2.00	5.00	.
756	N062	.00	164.00	.00	4.00	.
757	N063	.00	235.00	2.00	6.00	.
758	N064	.00	385.00	1.00	5.00	.
759	N065	.00	343.00	3.00	10.00	.
760	N066	.00	180.00	.00	4.00	.
761	N067	.00	513.00	2.00	6.00	.
762	N068	.00	18.00	.00	.00	.
763	N069	.00	115.00	.00	3.00	.
764	N070	.00	303.00	2.00	6.00	.
765	N071	.00	292.00	3.00	10.00	.
766	N072	.00	51.00	.00	2.00	.
767	N073	.00	218.00	2.00	6.00	.
768	N074	.00	515.00	9.00	12.00	.

Case Summaries

	PRECDA DE	registered	ballots cast	OVERVO TE	undervote	BLACK
769	N075	.00	120.00	1.00	5.00	.
770	N076	.00	38.00	.00	.00	.
771	N077	.00	127.00	.00	.00	.
772	N078	.00	13.00	.00	.00	.
773	N079	.00	197.00	3.00	2.00	.
774	N080	.00	55.00	2.00	4.00	.
775	N081	.00	176.00	1.00	7.00	.
776	N082	.00	41.00	.00	.00	.
777	N083	.00	9.00	.00	.00	.
778	N084	.00	72.00	.00	4.00	.
779	N085	.00	10.00	.00	.00	.
780	N086	.00	13.00	.00	.00	.
781	N087	.00	2.00	.00	.00	.
782	N088	.00	11.00	1.00	1.00	.
783	N089	.00	57.00	.00	.00	.
784	N090	.00	22.00	2.00	1.00	.
785	N091	.00	24.00	.00	.00	.
786	N092	.00	39.00	.00	1.00	.
787	N093	.00	4.00	.00	.00	.
788	N094	.00	25.00	1.00	.00	.
789	N095	.00	19.00	.00	.00	.
790	N096	.00	.00	.00	.00	.
Total	N	790	790	790	790	614

Case Summaries

	PRPLMB CH	Undervote s	Overvotes	BLACK	TOTALRE G	BALLOTS	NOVOTES
1	1	15.00	47.00	131.00	1767.00	1118.00	62.00
2	1A	15.00	20.00	1.00	1503.00	996.00	35.00
3	1B	13.00	32.00	196.00	1644.00	1080.00	45.00
4	1C	9.00	24.00	6.00	1572.00	1050.00	33.00
5	2	15.00	41.00	4.00	2504.00	1566.00	56.00
6	3	18.00	49.00	19.00	2557.00	1487.00	67.00
7	3A	6.00	15.00	1.00	877.00	556.00	21.00
8	3B	5.00	10.00	14.00	1060.00	595.00	15.00
9	3C	12.00	20.00	3.00	1712.00	1234.00	32.00
10	4	13.00	23.00	5.00	1477.00	849.00	36.00
11	4A	24.00	24.00	3.00	1534.00	872.00	48.00
12	4B	13.00	32.00	6.00	2101.00	1158.00	46.00
13	4C	3.00	12.00	.00	849.00	582.00	15.00
14	4D	16.00	41.00	2.00	1916.00	1230.00	57.00
15	4E	11.00	17.00	1.00	1091.00	676.00	28.00
16	4F	.00	.00	.00	.00	.00	.00
17	5	12.00	22.00	10.00	1146.00	595.00	34.00
18	5A	8.00	51.00	18.00	2031.00	1270.00	59.00
19	5B	12.00	72.00	18.00	2388.00	1727.00	84.00
20	5C	4.00	13.00	1.00	897.00	636.00	17.00
21	5D	9.00	35.00	21.00	1793.00	1055.00	44.00
22	5E	5.00	7.00	10.00	632.00	495.00	12.00
23	6	20.00	20.00	40.00	2112.00	1374.00	40.00
24	6A	16.00	22.00	5.00	1447.00	883.00	38.00
25	6B	4.00	19.00	8.00	567.00	349.00	23.00
26	6C	20.00	9.00	4.00	1417.00	955.00	29.00
27	7	11.00	36.00	7.00	1741.00	1159.00	47.00
28	7A	.00	.00	.00	41.00	33.00	.00
29	8	5.00	26.00	2.00	1626.00	992.00	31.00
30	8A	3.00	31.00	5.00	844.00	533.00	34.00
31	12	3.00	8.00	3.00	818.00	566.00	11.00
32	12A	5.00	21.00	25.00	2010.00	1331.00	26.00
33	12B	5.00	8.00	12.00	552.00	365.00	13.00
34	12C	12.00	26.00	22.00	2470.00	1554.00	38.00
35	12D	7.00	28.00	8.00	1759.00	1133.00	35.00
36	12E	.00	.00	.00	2.00	.00	.00
37	13	18.00	75.00	46.00	2148.00	1279.00	93.00
38	13A	.00	14.00	7.00	352.00	217.00	14.00
39	13B	2.00	13.00	20.00	273.00	149.00	15.00
40	13C	14.00	19.00	51.00	584.00	329.00	33.00
41	13D	.00	.00	3.00	88.00	50.00	.00
42	14	.00	16.00	3.00	1376.00	965.00	16.00
43	16	10.00	28.00	33.00	2161.00	1480.00	38.00
44	16A	14.00	41.00	3.00	1271.00	999.00	55.00
45	17	5.00	25.00	24.00	903.00	514.00	30.00
46	17B	2.00	3.00	3.00	322.00	188.00	5.00
47	18	9.00	60.00	58.00	1140.00	723.00	69.00
48	18A	39.00	107.00	51.00	2387.00	1332.00	146.00

Case Summaries

	PRPLMB CH	Undervote s	Overvotes	BLACK	TOTALRE G	BALLOTS	NOVOTES
49	18B	22.00	64.00	191.00	2181.00	1242.00	86.00
50	18C	20.00	74.00	51.00	2347.00	1448.00	94.00
51	18D	63.00	56.00	85.00	2539.00	1764.00	119.00
52	18E	4.00	10.00	23.00	522.00	274.00	14.00
53	18F	7.00	23.00	1.00	523.00	346.00	30.00
54	18G	.00	1.00	3.00	59.00	45.00	1.00
55	18H	2.00	2.00	.00	67.00	43.00	4.00
56	18I	3.00	13.00	19.00	350.00	254.00	16.00
57	18J	21.00	56.00	34.00	2014.00	1411.00	77.00
58	19	22.00	129.00	8.00	2588.00	1745.00	151.00
59	19A	12.00	38.00	20.00	1833.00	1334.00	50.00
60	20	12.00	55.00	5.00	984.00	561.00	67.00
61	21	3.00	55.00	2.00	899.00	532.00	58.00
62	21A	.00	9.00	.00	128.00	75.00	9.00
63	22	23.00	100.00	2.00	1407.00	898.00	123.00
64	23	22.00	57.00	4.00	1079.00	658.00	79.00
65	24	24.00	113.00	5.00	2041.00	1459.00	137.00
66	25	3.00	20.00	12.00	773.00	498.00	23.00
67	25A	1.00	10.00	3.00	489.00	361.00	11.00
68	25B	9.00	25.00	11.00	799.00	491.00	34.00
69	26	5.00	19.00	74.00	895.00	547.00	24.00
70	26A	11.00	61.00	99.00	1423.00	785.00	72.00
71	26B	9.00	22.00	38.00	1093.00	577.00	31.00
72	26C	3.00	10.00	6.00	810.00	574.00	13.00
73	27	31.00	88.00	11.00	1626.00	1069.00	119.00
74	28	25.00	24.00	1.00	1561.00	1102.00	49.00
75	29	27.00	92.00	7.00	1967.00	1414.00	119.00
76	29A	6.00	37.00	14.00	1397.00	989.00	43.00
77	29B	25.00	37.00	2.00	1135.00	845.00	62.00
78	29C	5.00	18.00	40.00	961.00	724.00	23.00
79	29D	4.00	29.00	31.00	1523.00	891.00	33.00
80	29E	1.00	11.00	.00	521.00	412.00	12.00
81	29F	.00	7.00	5.00	100.00	60.00	7.00
82	30	19.00	45.00	139.00	1557.00	908.00	64.00
83	30A	25.00	70.00	12.00	1373.00	1012.00	95.00
84	30B	9.00	88.00	308.00	2511.00	1427.00	97.00
85	31	8.00	24.00	33.00	2097.00	1287.00	32.00
86	31A	16.00	33.00	23.00	2118.00	1212.00	49.00
87	31B	2.00	12.00	.00	630.00	454.00	14.00
88	31C	3.00	15.00	13.00	1035.00	615.00	18.00
89	31D	8.00	41.00	7.00	1678.00	973.00	49.00
90	31E	.00	4.00	2.00	330.00	226.00	4.00
91	31F	.00	.00	.00	.00	.00	.00
92	31G	.00	.00	.00	.00	.00	.00
93	31H	.00	.00	.00	2.00	2.00	.00
94	32	9.00	33.00	56.00	1976.00	1286.00	42.00
95	32A	8.00	33.00	59.00	1849.00	1119.00	41.00
96	33	1.00	4.00	.00	615.00	344.00	5.00

Case Summaries

	PRPLMB CH	Undervotes	Overvotes	BLACK	TOTALRE G	BALLOTS	NOVOTES
97	34	2.00	15.00	1.00	690.00	421.00	17.00
98	35	.00	10.00	36.00	48.00	29.00	10.00
99	36	11.00	14.00	23.00	284.00	169.00	25.00
100	37	15.00	40.00	299.00	1113.00	627.00	55.00
101	38	.00	23.00	389.00	439.00	159.00	23.00
102	38A	.00	.00	.00	4.00	2.00	.00
103	39	2.00	18.00	8.00	1136.00	549.00	20.00
104	40	5.00	51.00	1.00	838.00	516.00	56.00
105	41	20.00	74.00	94.00	2795.00	1617.00	94.00
106	41A	4.00	30.00	26.00	1193.00	772.00	34.00
107	41B	24.00	65.00	182.00	2479.00	1664.00	89.00
108	41C	20.00	23.00	113.00	1493.00	948.00	43.00
109	41D	15.00	38.00	112.00	1856.00	1215.00	53.00
110	42	5.00	39.00	27.00	2010.00	1263.00	44.00
111	42A	3.00	7.00	38.00	1133.00	753.00	10.00
112	43	1.00	7.00	3.00	133.00	83.00	8.00
113	44	2.00	23.00	1.00	427.00	273.00	25.00
114	44A	6.00	32.00	241.00	390.00	245.00	38.00
115	44B	2.00	41.00	226.00	411.00	274.00	43.00
116	44C	1.00	14.00	1.00	133.00	82.00	15.00
117	44D	.00	.00	.00	.00	.00	.00
118	44E	.00	.00	.00	.00	.00	.00
119	45	10.00	35.00	21.00	1960.00	1265.00	45.00
120	45A	19.00	28.00	17.00	1648.00	970.00	47.00
121	46	.00	12.00	6.00	532.00	286.00	12.00
122	46A	9.00	10.00	10.00	666.00	331.00	19.00
123	46B	.00	5.00	3.00	71.00	45.00	5.00
124	47	11.00	33.00	65.00	2128.00	1106.00	44.00
125	47A	5.00	16.00	18.00	2279.00	1448.00	21.00
126	47B	10.00	19.00	11.00	1527.00	955.00	29.00
127	47C	34.00	42.00	21.00	2322.00	1444.00	76.00
128	47D	10.00	11.00	12.00	1625.00	1123.00	21.00
129	48	6.00	24.00	12.00	1741.00	1190.00	30.00
130	49	8.00	28.00	8.00	2155.00	1300.00	36.00
131	50	9.00	23.00	5.00	1201.00	741.00	32.00
132	51	42.00	86.00	736.00	1713.00	854.00	128.00
133	52	36.00	52.00	10.00	2429.00	1360.00	88.00
134	52A	1.00	1.00	2.00	176.00	105.00	2.00
135	53	5.00	18.00	19.00	1072.00	679.00	23.00
136	54	8.00	47.00	685.00	733.00	341.00	55.00
137	55	12.00	32.00	767.00	856.00	324.00	44.00
138	56	3.00	31.00	140.00	721.00	389.00	34.00
139	56A	2.00	14.00	116.00	198.00	107.00	16.00
140	56B	2.00	16.00	115.00	451.00	270.00	18.00
141	56C	2.00	23.00	328.00	558.00	269.00	25.00
142	57	19.00	61.00	288.00	1918.00	1045.00	80.00
143	58	8.00	26.00	14.00	1309.00	819.00	34.00
144	58A	6.00	35.00	2.00	1526.00	952.00	41.00

Case Summaries

	PRPLMB CH	Undervotes	Overvotes	BLACK	TOTALRE G	BALLOTS	NOVOTES
145	59	12.00	237.00	2620.00	2743.00	1491.00	249.00
146	59A	.00	.00	.00	1.00	.00	.00
147	60	19.00	58.00	7.00	1080.00	696.00	77.00
148	61	12.00	128.00	8.00	1991.00	1391.00	140.00
149	61A	2.00	17.00	5.00	628.00	434.00	19.00
150	61B	3.00	31.00	347.00	1471.00	624.00	34.00
151	61C	.00	.00	.00	27.00	16.00	.00
152	62	19.00	123.00	1524.00	1959.00	1074.00	142.00
153	63	11.00	19.00	8.00	959.00	580.00	30.00
154	64	8.00	116.00	1233.00	1530.00	834.00	124.00
155	65	.00	1.00	.00	2.00	48.00	1.00
156	65A	6.00	37.00	144.00	1414.00	751.00	43.00
157	65B	5.00	24.00	193.00	575.00	419.00	29.00
158	65C	.00	1.00	.00	143.00	19.00	1.00
159	66	60.00	240.00	2493.00	2648.00	1563.00	300.00
160	67	16.00	171.00	1899.00	1994.00	1096.00	187.00
161	68	.00	21.00	129.00	824.00	362.00	21.00
162	69	4.00	63.00	862.00	1068.00	724.00	67.00
163	69A	2.00	29.00	297.00	450.00	262.00	31.00
164	70	4.00	34.00	398.00	567.00	331.00	38.00
165	71	19.00	122.00	1280.00	2323.00	1131.00	141.00
166	71A	3.00	11.00	10.00	599.00	370.00	14.00
167	73	.00	1.00	17.00	35.00	23.00	1.00
168	73A	4.00	15.00	97.00	751.00	497.00	19.00
169	73B	13.00	5.00	6.00	753.00	546.00	18.00
170	73C	1.00	2.00	29.00	258.00	99.00	3.00
171	73D	.00	7.00	54.00	287.00	189.00	7.00
172	73E	10.00	26.00	189.00	776.00	496.00	36.00
173	73F	.00	2.00	.00	187.00	131.00	2.00
174	73H	8.00	55.00	35.00	2085.00	1692.00	63.00
175	73I	.00	1.00	.00	27.00	18.00	1.00
176	74	23.00	62.00	356.00	2441.00	1408.00	85.00
177	74A	4.00	63.00	591.00	855.00	588.00	67.00
178	74B	5.00	18.00	136.00	1830.00	891.00	23.00
179	74C	22.00	60.00	461.00	1654.00	719.00	82.00
180	74D	2.00	20.00	155.00	202.00	115.00	22.00
181	74E	3.00	28.00	67.00	1535.00	977.00	31.00
182	74F	9.00	15.00	77.00	965.00	665.00	24.00
183	74G	6.00	37.00	202.00	1959.00	1038.00	43.00
184	75	15.00	104.00	1328.00	1746.00	955.00	119.00
185	76	.00	17.00	93.00	697.00	354.00	17.00
186	76A	7.00	52.00	473.00	1369.00	655.00	59.00
187	77	90.00	24.00	6.00	1996.00	1252.00	114.00
188	77A	8.00	25.00	8.00	1638.00	802.00	33.00
189	78	3.00	20.00	52.00	761.00	533.00	23.00
190	79	12.00	52.00	509.00	1724.00	741.00	64.00
191	81	14.00	52.00	964.00	1023.00	446.00	66.00
192	81A	1.00	2.00	1.00	193.00	95.00	3.00

Case Summaries

	PRPLMB CH	Undervote s	Overvotes	BLACK	TOTALRE G	BALLOTS	NOVOTES
193	82	12.00	150.00	2050.00	2179.00	1365.00	162.00
194	83	3.00	11.00	88.00	710.00	185.00	14.00
195	83A	.00	3.00	102.00	311.00	44.00	3.00
196	84	.00	13.00	576.00	632.00	270.00	13.00
197	85	1.00	32.00	441.00	473.00	171.00	33.00
198	86	3.00	1.00	12.00	439.00	183.00	4.00
199	86A	1.00	12.00	45.00	215.00	125.00	13.00
200	86B	3.00	11.00	68.00	329.00	173.00	14.00
201	87	.00	.00	36.00	124.00	9.00	.00
202	87A	11.00	21.00	26.00	517.00	307.00	32.00
203	87B	4.00	3.00	5.00	169.00	55.00	7.00
204	87C	.00	.00	.00	14.00	.00	.00
205	88	8.00	18.00	16.00	1057.00	602.00	26.00
206	88A	.00	.00	3.00	110.00	65.00	.00
207	88B	.00	13.00	9.00	366.00	247.00	13.00
208	89	8.00	31.00	30.00	1723.00	1055.00	39.00
209	90	7.00	22.00	3.00	1675.00	781.00	29.00
210	91	5.00	45.00	349.00	1617.00	759.00	50.00
211	92	3.00	39.00	84.00	1373.00	687.00	42.00
212	92A	.00	.00	.00	18.00	2.00	.00
213	93	10.00	36.00	118.00	1962.00	1283.00	46.00
214	93A	2.00	18.00	16.00	1345.00	800.00	20.00
215	93B	16.00	37.00	145.00	2366.00	1476.00	53.00
216	94	7.00	102.00	304.00	2649.00	1496.00	109.00
217	95	5.00	36.00	127.00	1452.00	735.00	41.00
218	95A	4.00	34.00	247.00	968.00	399.00	38.00
219	96	9.00	29.00	42.00	855.00	483.00	38.00
220	96A	1.00	11.00	39.00	461.00	293.00	12.00
221	97	14.00	70.00	171.00	1609.00	953.00	84.00
222	97A	2.00	13.00	134.00	374.00	177.00	15.00
223	97B	17.00	63.00	885.00	1244.00	510.00	80.00
224	99	15.00	49.00	633.00	663.00	283.00	84.00
225	100	27.00	107.00	1247.00	1308.00	714.00	134.00
226	101	14.00	42.00	34.00	1185.00	764.00	56.00
227	101A	.00	6.00	.00	209.00	155.00	6.00
228	102	16.00	60.00	72.00	1778.00	1059.00	76.00
229	103	4.00	13.00	27.00	519.00	264.00	17.00
230	104	10.00	34.00	84.00	891.00	463.00	44.00
231	104A	.00	1.00	1.00	97.00	67.00	1.00
232	104B	28.00	54.00	216.00	2443.00	1538.00	82.00
233	104C	4.00	8.00	42.00	139.00	52.00	12.00
234	105	10.00	24.00	16.00	1516.00	1097.00	34.00
235	106	41.00	47.00	63.00	1969.00	1209.00	88.00
236	107	18.00	46.00	26.00	1441.00	848.00	64.00
237	108	7.00	33.00	73.00	1475.00	772.00	40.00
238	108A	4.00	24.00	34.00	627.00	297.00	28.00
239	108B	.00	3.00	7.00	122.00	64.00	3.00
240	109	52.00	102.00	886.00	1152.00	632.00	154.00

Case Summaries

	PRPLMB CH	Undervote s	Overvotes	BLACK	TOTALRE G	BALLOTS	NOVOTES
241	110	18.00	26.00	11.00	1618.00	1146.00	44.00
242	111	26.00	61.00	4.00	1757.00	1005.00	87.00
243	112	41.00	53.00	21.00	2441.00	1771.00	94.00
244	113	10.00	40.00	48.00	1716.00	1113.00	50.00
245	113A	10.00	31.00	49.00	1036.00	631.00	41.00
246	114	7.00	15.00	203.00	324.00	157.00	22.00
247	114A	3.00	22.00	196.00	280.00	157.00	25.00
248	114B	5.00	20.00	236.00	337.00	153.00	25.00
249	114C	.00	.00	2.00	11.00	6.00	.00
250	114D	.00	.00	.00	8.00	7.00	.00
251	115	17.00	39.00	3.00	1017.00	633.00	56.00
252	116	1.00	12.00	81.00	184.00	95.00	13.00
253	117	4.00	59.00	148.00	2144.00	1107.00	83.00
254	117A	10.00	92.00	309.00	2643.00	1368.00	102.00
255	118	12.00	69.00	119.00	2636.00	1229.00	81.00
256	119	10.00	26.00	2.00	830.00	562.00	36.00
257	119A	5.00	21.00	13.00	732.00	458.00	26.00
258	120	8.00	39.00	67.00	1571.00	798.00	47.00
259	121	6.00	31.00	72.00	974.00	589.00	37.00
260	121A	.00	3.00	4.00	202.00	132.00	3.00
261	121B	.00	2.00	1.00	55.00	20.00	2.00
262	121C	.00	1.00	1.00	22.00	6.00	1.00
263	121D	3.00	24.00	75.00	790.00	425.00	27.00
264	122	5.00	42.00	74.00	787.00	412.00	47.00
265	122A	1.00	6.00	9.00	149.00	73.00	7.00
266	123	7.00	26.00	21.00	1272.00	642.00	33.00
267	124	6.00	49.00	266.00	1275.00	516.00	55.00
268	124A	1.00	2.00	39.00	307.00	134.00	3.00
269	124B	1.00	6.00	18.00	166.00	80.00	7.00
270	124C	4.00	16.00	8.00	569.00	269.00	20.00
271	125	14.00	37.00	1.00	1208.00	703.00	51.00
272	126	7.00	17.00	14.00	617.00	325.00	24.00
273	127	75.00	61.00	70.00	2601.00	1431.00	136.00
274	127A	1.00	17.00	2.00	901.00	553.00	18.00
275	128	54.00	90.00	281.00	2620.00	1528.00	144.00
276	128A	8.00	24.00	70.00	1554.00	954.00	32.00
277	128B	9.00	31.00	13.00	1036.00	693.00	40.00
278	128C	9.00	28.00	19.00	1500.00	1068.00	37.00
279	128D	6.00	48.00	29.00	1175.00	644.00	54.00
280	128E	24.00	39.00	113.00	2679.00	1927.00	63.00
281	128F	5.00	11.00	33.00	800.00	395.00	16.00
282	128G	8.00	43.00	81.00	1565.00	958.00	51.00
283	128H	14.00	50.00	95.00	2085.00	1599.00	64.00
284	128I	7.00	28.00	95.00	1893.00	1509.00	35.00
285	128J	12.00	33.00	75.00	1547.00	1156.00	45.00
286	128K	.00	1.00	.00	20.00	15.00	1.00
287	129	4.00	35.00	86.00	1142.00	530.00	39.00
288	129A	1.00	10.00	81.00	487.00	229.00	11.00

Case Summaries

	PRPLMB CH	Undervote s	Overvotes	BLACK	TOTALRE G	BALLOTS	NOVOTES
289	130	6.00	43.00	41.00	1389.00	677.00	49.00
290	130A	21.00	20.00	5.00	1142.00	686.00	41.00
291	130B	.00	4.00	18.00	174.00	83.00	4.00
292	130C	2.00	2.00	8.00	100.00	42.00	4.00
293	131	2.00	18.00	4.00	575.00	377.00	18.00
294	131A	2.00	10.00	18.00	344.00	214.00	12.00
295	132	2.00	38.00	143.00	824.00	423.00	40.00
296	132A	21.00	80.00	64.00	1720.00	1174.00	101.00
297	132B	10.00	25.00	36.00	464.00	254.00	36.00
298	132C	73.00	51.00	143.00	2469.00	1642.00	124.00
299	132D	16.00	39.00	61.00	1407.00	1037.00	55.00
300	133	34.00	110.00	782.00	1947.00	945.00	144.00
301	134	5.00	43.00	1.00	1345.00	760.00	48.00
302	135	4.00	9.00	4.00	577.00	375.00	13.00
303	135A	.00	.00	1.00	28.00	10.00	.00
304	135B	44.00	39.00	7.00	1358.00	1126.00	83.00
305	135C	.00	.00	2.00	68.00	48.00	.00
306	135D	.00	.00	.00	7.00	.00	.00
307	136	67.00	56.00	136.00	2179.00	1281.00	123.00
308	137	60.00	103.00	13.00	1963.00	1054.00	163.00
309	138	7.00	30.00	204.00	1356.00	544.00	37.00
310	140	16.00	47.00	101.00	1385.00	779.00	63.00
311	140A	8.00	55.00	59.00	1661.00	1015.00	63.00
312	141	8.00	40.00	15.00	1341.00	679.00	48.00
313	141A	3.00	17.00	56.00	504.00	272.00	20.00
314	142	6.00	20.00	11.00	1099.00	695.00	26.00
315	142A	1.00	6.00	16.00	176.00	122.00	7.00
316	142B	.00	.00	.00	1.00	.00	.00
317	143	.00	.00	.00	39.00	24.00	.00
318	144	16.00	48.00	148.00	1579.00	1174.00	64.00
319	144A	30.00	32.00	185.00	1607.00	954.00	62.00
320	144B	58.00	34.00	218.00	1978.00	1245.00	92.00
321	144C	125.00	121.00	214.00	2670.00	1696.00	246.00
322	144D	64.00	100.00	241.00	2471.00	1741.00	164.00
323	144E	87.00	53.00	308.00	1955.00	1308.00	140.00
324	144F	.00	.00	.00	16.00	9.00	.00
325	145	3.00	17.00	9.00	783.00	517.00	20.00
326	146	27.00	71.00	1325.00	1487.00	791.00	98.00
327	147	5.00	40.00	168.00	1508.00	894.00	45.00
328	147A	2.00	9.00	55.00	251.00	137.00	11.00
329	148	90.00	63.00	26.00	2709.00	1684.00	153.00
330	148A	6.00	32.00	28.00	949.00	602.00	36.00
331	148B	4.00	35.00	1.00	713.00	474.00	39.00
332	148C	12.00	30.00	57.00	1632.00	1135.00	42.00
333	148D	175.00	50.00	69.00	2459.00	1649.00	225.00
334	148E	1.00	4.00	20.00	187.00	69.00	5.00
335	148F	5.00	3.00	10.00	333.00	277.00	8.00
336	148G	12.00	67.00	275.00	1594.00	1156.00	79.00

Case Summaries

	PRPLMB CH	Undervote s	Overvotes	BLACK	TOTALRE G	BALLOTS	NOVOTES
337	148H	.00	.00	.00	8.00	4.00	.00
338	148J	18.00	23.00	45.00	1473.00	1056.00	41.00
339	148K	43.00	73.00	1.00	1786.00	1441.00	116.00
340	148L	16.00	65.00	3.00	1766.00	1379.00	81.00
341	148M	23.00	50.00	13.00	1424.00	1046.00	73.00
342	148N	17.00	84.00	1.00	1708.00	1364.00	101.00
343	148O	47.00	46.00	57.00	2116.00	1316.00	93.00
344	148P	31.00	52.00	1.00	1225.00	960.00	83.00
345	148Q	8.00	45.00	.00	867.00	699.00	53.00
346	149	16.00	61.00	1.00	1610.00	1085.00	77.00
347	150	8.00	9.00	1.00	1339.00	836.00	17.00
348	150A	4.00	10.00	.00	294.00	153.00	14.00
349	150B	.00	2.00	.00	124.00	71.00	2.00
350	151	2.00	6.00	9.00	287.00	170.00	8.00
351	152	8.00	45.00	45.00	1250.00	810.00	53.00
352	153	41.00	68.00	122.00	1985.00	1182.00	109.00
353	153A	11.00	20.00	77.00	1651.00	1123.00	31.00
354	153B	12.00	31.00	77.00	1572.00	1081.00	43.00
355	154	53.00	100.00	8.00	2939.00	1952.00	153.00
356	154A	93.00	64.00	24.00	2817.00	2032.00	157.00
357	154B	6.00	12.00	1.00	804.00	568.00	18.00
358	154C	6.00	1.00	.00	194.00	134.00	7.00
359	154D	15.00	47.00	97.00	1928.00	1312.00	62.00
360	154E	29.00	81.00	85.00	2548.00	1728.00	110.00
361	154F	13.00	26.00	2.00	784.00	602.00	39.00
362	154G	55.00	119.00	3.00	2934.00	2434.00	174.00
363	155	8.00	36.00	94.00	1280.00	847.00	44.00
364	155A	26.00	78.00	3.00	1524.00	1002.00	104.00
365	155B	14.00	51.00	184.00	2024.00	1187.00	65.00
366	156	17.00	32.00	96.00	800.00	528.00	49.00
367	156A	10.00	26.00	14.00	850.00	449.00	36.00
368	156B	4.00	15.00	19.00	592.00	265.00	19.00
369	156C	1.00	2.00	7.00	91.00	59.00	3.00
370	157	25.00	100.00	1120.00	1964.00	1052.00	125.00
371	157A	11.00	31.00	3.00	806.00	476.00	42.00
372	157B	24.00	51.00	575.00	1481.00	886.00	75.00
373	158	8.00	17.00	1.00	515.00	285.00	25.00
374	159	11.00	44.00	98.00	2087.00	1361.00	55.00
375	159A	4.00	29.00	46.00	1936.00	1338.00	33.00
376	159B	8.00	20.00	38.00	1641.00	1076.00	28.00
377	159C	7.00	40.00	54.00	1792.00	1255.00	47.00
378	159D	1.00	6.00	3.00	329.00	223.00	7.00
379	159E	24.00	40.00	71.00	2123.00	1346.00	64.00
380	159F	9.00	28.00	52.00	1722.00	1156.00	37.00
381	159G	.00	.00	5.00	120.00	70.00	.00
382	159H	.00	.00	.00	36.00	19.00	.00
383	159I	17.00	43.00	94.00	2799.00	1975.00	60.00
384	159J	8.00	26.00	105.00	1568.00	842.00	34.00

Case Summaries

	PRPLMB CH	Undervote s	Overvotes	BLACK	TOTALRE G	BALLOTS	NOVOTES
385	159K	8.00	34.00	77.00	1377.00	1065.00	42.00
386	159L	9.00	19.00	75.00	1567.00	970.00	28.00
387	159M	.00	.00	.00	.00	.00	.00
388	159N	.00	.00	.00	.00	.00	.00
389	159O	.00	.00	.00	.00	.00	.00
390	159P	3.00	4.00	19.00	953.00	682.00	7.00
391	159Q	6.00	23.00	44.00	1300.00	878.00	29.00
392	160	9.00	55.00	1.00	1829.00	1317.00	64.00
393	161	8.00	17.00	32.00	1180.00	779.00	25.00
394	161A	.00	2.00	6.00	235.00	154.00	2.00
395	161B	.00	.00	.00	2.00	.00	.00
396	162	4.00	19.00	28.00	816.00	524.00	23.00
397	162A	15.00	84.00	3.00	1660.00	1203.00	99.00
398	162B	79.00	73.00	17.00	2317.00	1744.00	152.00
399	162C	17.00	71.00	2.00	1303.00	886.00	88.00
400	162D	14.00	19.00	.00	975.00	754.00	33.00
401	162E	185.00	73.00	8.00	2083.00	1589.00	258.00
402	162F	6.00	58.00	26.00	1853.00	1375.00	64.00
403	162G	90.00	168.00	6.00	2605.00	1981.00	258.00
404	162H	.00	4.00	.00	208.00	159.00	4.00
405	162I	5.00	9.00	.00	285.00	207.00	14.00
406	162J	78.00	108.00	4.00	2734.00	2181.00	186.00
407	162K	65.00	102.00	43.00	2073.00	1576.00	167.00
408	162L	17.00	20.00	1.00	750.00	630.00	37.00
409	163	3.00	9.00	5.00	311.00	183.00	12.00
410	164	14.00	37.00	55.00	1282.00	808.00	51.00
411	165	12.00	29.00	9.00	671.00	361.00	41.00
412	166	2.00	31.00	13.00	1230.00	897.00	33.00
413	166A	1.00	4.00	17.00	585.00	382.00	5.00
414	166B	7.00	49.00	5.00	788.00	498.00	56.00
415	166C	5.00	37.00	1.00	559.00	397.00	42.00
416	167	2.00	4.00	1.00	564.00	365.00	6.00
417	168	23.00	83.00	1.00	1766.00	1294.00	106.00
418	168A	23.00	77.00	.00	1293.00	910.00	100.00
419	168B	8.00	8.00	.00	420.00	320.00	16.00
420	169	3.00	31.00	1.00	512.00	359.00	34.00
421	170	2.00	17.00	100.00	808.00	412.00	19.00
422	171	44.00	90.00	41.00	2508.00	1501.00	134.00
423	171A	73.00	127.00	102.00	2939.00	2102.00	200.00
424	171B	9.00	40.00	487.00	712.00	470.00	49.00
425	171C	7.00	32.00	329.00	881.00	545.00	39.00
426	171D	.00	.00	1.00	86.00	65.00	.00
427	172	15.00	42.00	1077.00	1251.00	761.00	57.00
428	172A	.00	1.00	2.00	38.00	24.00	1.00
429	172B	1.00	.00	4.00	63.00	20.00	1.00
430	172C	.00	1.00	.00	7.00	3.00	1.00
431	172D	.00	.00	.00	2.00	2.00	.00
432	173	25.00	63.00	1367.00	1469.00	860.00	88.00

Case Summaries

	PRPLMB CH	Undervote s	Overvotes	BLACK	TOTALRE G	BALLOTS	NOVOTES
433	174	99.00	48.00	19.00	2687.00	1529.00	148.00
434	174A	115.00	50.00	63.00	2845.00	1738.00	165.00
435	174B	1.00	19.00	145.00	599.00	277.00	20.00
436	174C	15.00	28.00	45.00	1727.00	976.00	43.00
437	175	26.00	76.00	1105.00	1680.00	1012.00	102.00
438	175A	1.00	1.00	19.00	117.00	49.00	2.00
439	176	3.00	20.00	198.00	988.00	441.00	23.00
440	176A	68.00	25.00	27.00	1840.00	1243.00	93.00
441	176B	38.00	22.00	27.00	1172.00	771.00	60.00
442	177	.00	.00	.00	.00	.00	.00
443	178	22.00	32.00	80.00	1764.00	937.00	54.00
444	178A	6.00	26.00	42.00	745.00	410.00	32.00
445	179	13.00	54.00	.00	1039.00	643.00	67.00
446	180	19.00	64.00	.00	1506.00	1061.00	83.00
447	182	3.00	40.00	.00	452.00	367.00	43.00
448	183	7.00	36.00	.00	1104.00	704.00	43.00
449	184	9.00	31.00	.00	643.00	422.00	40.00
450	185	39.00	105.00	2.00	1336.00	932.00	144.00
451	186	20.00	79.00	1.00	1646.00	1146.00	99.00
452	187	22.00	81.00	.00	1542.00	1042.00	103.00
453	188	17.00	61.00	1.00	1088.00	773.00	78.00
454	189	47.00	21.00	23.00	2062.00	1108.00	68.00
455	190	93.00	35.00	7.00	2246.00	1328.00	128.00
456	191	186.00	52.00	8.00	2879.00	1877.00	238.00
457	193	180.00	25.00	26.00	2142.00	1296.00	205.00
458	193A	69.00	71.00	5.00	2733.00	1829.00	140.00
459	193B	35.00	48.00	24.00	2758.00	1853.00	83.00
460	193C	32.00	63.00	5.00	2531.00	1817.00	95.00
461	193D	139.00	56.00	28.00	2532.00	1456.00	195.00
462	193E	127.00	39.00	14.00	2034.00	1459.00	166.00
463	193F	63.00	31.00	29.00	1996.00	1111.00	94.00
464	194	79.00	43.00	33.00	2594.00	1814.00	122.00
465	194A	77.00	71.00	27.00	2053.00	1414.00	148.00
466	194B	59.00	57.00	11.00	2776.00	1898.00	116.00
467	194C	6.00	18.00	4.00	714.00	526.00	24.00
468	194D	78.00	104.00	1.00	2042.00	1619.00	182.00
469	194E	23.00	50.00	25.00	1717.00	1219.00	73.00
470	194F	8.00	22.00	.00	597.00	470.00	30.00
471	194G	75.00	39.00	27.00	1932.00	1339.00	114.00
472	195	33.00	58.00	30.00	2347.00	1566.00	91.00
473	196	6.00	31.00	37.00	1746.00	1143.00	37.00
474	196A	5.00	16.00	19.00	983.00	607.00	21.00
475	196B	.00	.00	.00	18.00	7.00	.00
476	197	7.00	11.00	11.00	1620.00	1034.00	18.00
477	198	27.00	70.00	66.00	2019.00	1082.00	97.00
478	198A	13.00	35.00	65.00	1637.00	1143.00	48.00
479	199	104.00	29.00	9.00	2258.00	1348.00	133.00
480	199A	4.00	19.00	67.00	729.00	396.00	23.00

Case Summaries

	PRPLMB CH	Undervotes	Overvotes	BLACK	TOTALRE G	BALLOTS	NOVOTES
481	200	6.00	35.00	41.00	1436.00	809.00	41.00
482	201	10.00	30.00	39.00	1681.00	1000.00	40.00
483	201A	1.00	8.00	.00	681.00	410.00	9.00
484	202	4.00	13.00	7.00	1039.00	728.00	17.00
485	202A	4.00	24.00	8.00	1344.00	888.00	28.00
486	203	1.00	5.00	.00	328.00	241.00	6.00
487	204	73.00	40.00	5.00	2118.00	1237.00	113.00
488	205	27.00	69.00	71.00	2308.00	1216.00	96.00
489	205A	8.00	29.00	35.00	1728.00	1153.00	37.00
490	205B	79.00	67.00	67.00	2444.00	1735.00	146.00
491	205C	76.00	68.00	56.00	2539.00	1794.00	144.00
492	205D	8.00	26.00	8.00	1660.00	1198.00	34.00
493	205E	9.00	10.00	9.00	966.00	626.00	19.00
494	205F	49.00	36.00	68.00	2766.00	2026.00	85.00
495	205G	41.00	46.00	44.00	2910.00	2208.00	87.00
496	205H	5.00	25.00	39.00	1643.00	1149.00	30.00
497	206	25.00	78.00	8.00	2071.00	1447.00	101.00
498	206A	43.00	45.00	63.00	2468.00	1681.00	88.00
499	206B	58.00	68.00	10.00	2718.00	1925.00	126.00
500	206C	25.00	39.00	14.00	1971.00	1271.00	64.00
501	206D	95.00	103.00	13.00	2218.00	1539.00	198.00
502	207	7.00	21.00	116.00	527.00	326.00	28.00
503	207A	7.00	32.00	44.00	1492.00	992.00	39.00
504	208	9.00	27.00	5.00	1209.00	722.00	36.00
505	209	4.00	14.00	1.00	1073.00	732.00	18.00
506	210	2.00	25.00	56.00	1155.00	632.00	27.00
507	211	73.00	49.00	26.00	2726.00	1524.00	122.00
508	212	8.00	22.00	6.00	1464.00	1027.00	30.00
509	213	19.00	24.00	76.00	1781.00	942.00	43.00
510	213A	.00	5.00	71.00	630.00	269.00	5.00
511	214	51.00	44.00	20.00	2146.00	1491.00	95.00
512	214A	1.00	7.00	9.00	694.00	467.00	8.00
513	215	8.00	22.00	3.00	1502.00	881.00	30.00
514	216	27.00	51.00	66.00	2673.00	1507.00	78.00
515	217	10.00	28.00	5.00	1589.00	1034.00	38.00
516	218	30.00	55.00	12.00	1585.00	1032.00	85.00
517	219	3.00	7.00	2.00	1059.00	697.00	10.00
518	219A	8.00	23.00	6.00	1384.00	1055.00	31.00
519	219B	5.00	12.00	10.00	1656.00	1215.00	17.00
520	219C	78.00	34.00	13.00	2429.00	1707.00	112.00
521	219D	5.00	8.00	15.00	1411.00	1004.00	13.00
522	219E	1.00	14.00	2.00	587.00	457.00	15.00
523	220	62.00	81.00	25.00	2158.00	1277.00	143.00
524	220A	43.00	38.00	34.00	1931.00	1100.00	81.00
525	220B	31.00	44.00	28.00	1700.00	1240.00	75.00
526	221	83.00	102.00	2.00	1797.00	1226.00	185.00
527	222	25.00	141.00	2.00	1982.00	1314.00	166.00
528	223	50.00	118.00	1.00	1938.00	1370.00	168.00

Case Summaries

	PRPLMB CH	Undervote s	Overvotes	BLACK	TOTALRE G	BALLOTS	NOVOTES
529	224	20.00	34.00	14.00	1698.00	1085.00	54.00
530	225	53.00	28.00	33.00	2115.00	1278.00	81.00
531	226	7.00	13.00	6.00	1323.00	919.00	20.00
532	A001	.00	1.00	.	.	36.00	1.00
533	A002	.00	.00	.	.	.00	.00
534	A003	.00	.00	.	.	.00	.00
535	A004	11.00	5.00	.	.	687.00	16.00
536	A005	14.00	2.00	.	.	529.00	16.00
537	A006	.00	.00	.	.	53.00	.00
538	A007	1.00	2.00	.	.	70.00	3.00
539	A008	4.00	4.00	.	.	289.00	8.00
540	A009	10.00	3.00	.	.	439.00	13.00
541	A010	1.00	.00	.	.	113.00	1.00
542	A011	5.00	3.00	.	.	184.00	8.00
543	A012	1.00	2.00	.	.	141.00	3.00
544	A013	.00	.00	.	.	46.00	.00
545	A014	3.00	.00	.	.	146.00	3.00
546	A015	1.00	.00	.	.	21.00	1.00
547	A016	46.00	10.00	.	.	2424.00	56.00
548	A017	20.00	5.00	.	.	1316.00	25.00
549	A018	46.00	5.00	.	.	1576.00	51.00
550	A019	1.00	.00	.	.	31.00	1.00
551	A020	30.00	8.00	.	.	986.00	38.00
552	A021	8.00	1.00	.	.	222.00	9.00
553	A022	.00	.00	.	.	.00	.00
554	A023	.00	.00	.	.	109.00	.00
555	A024	14.00	1.00	.	.	460.00	15.00
556	A025	33.00	5.00	.	.	1079.00	38.00
557	A026	29.00	1.00	.	.	651.00	30.00
558	A027	7.00	3.00	.	.	355.00	10.00
559	A028	38.00	6.00	.	.	1032.00	44.00
560	A029	29.00	9.00	.	.	897.00	38.00
561	A030	7.00	1.00	.	.	203.00	8.00
562	A031	54.00	14.00	.	.	1841.00	68.00
563	A032	10.00	4.00	.	.	315.00	14.00
564	A033	46.00	10.00	.	.	2052.00	56.00
565	A034	18.00	2.00	.	.	818.00	20.00
566	A035	122.00	31.00	.	.	4902.00	153.00
567	A036	.00	.00	.	.	.00	.00
568	A037	12.00	2.00	.	.	274.00	14.00
569	A038	179.00	33.00	.	.	7253.00	212.00
570	A039	25.00	3.00	.	.	882.00	28.00
571	A040	3.00	.00	.	.	69.00	3.00
572	A041	12.00	5.00	.	.	768.00	17.00
573	A042	2.00	.00	.	.	115.00	2.00
574	A043	5.00	1.00	.	.	404.00	6.00
575	A044	1.00	.00	.	.	14.00	1.00
576	A045	8.00	4.00	.	.	191.00	12.00

Case Summaries

	PRPLMB CH	Undervote s	Overvotes	BLACK	TOTALRE G	BALLOTS	NOVOTES
577	A046	11.00	.00	.	.	152.00	11.00
578	A047	.00	.00	.	.	.00	.00
579	A048	11.00	1.00	.	.	450.00	12.00
580	A049	1.00	.00	.	.	61.00	1.00
581	A050	8.00	.00	.	.	145.00	8.00
582	A051	.00	2.00	.	.	43.00	2.00
583	A052	.00	.00	.	.	.00	.00
584	A053	8.00	1.00	.	.	282.00	9.00
585	A054	1.00	1.00	.	.	111.00	2.00
586	A055	11.00	.00	.	.	570.00	11.00
587	A056	5.00	.00	.	.	169.00	5.00
588	A057	22.00	.00	.	.	792.00	22.00
589	A058	58.00	9.00	.	.	2363.00	67.00
590	A059	1.00	.00	.	.	69.00	1.00
591	A060	6.00	1.00	.	.	145.00	7.00
592	A061	11.00	.00	.	.	498.00	11.00
593	A062	3.00	1.00	.	.	75.00	4.00
594	A063	1.00	.00	.	.	72.00	1.00
595	A064	33.00	10.00	.	.	1694.00	43.00
596	A065	1.00	.00	.	.	64.00	1.00
597	A066	21.00	1.00	.	.	1142.00	22.00
598	A067	8.00	2.00	.	.	100.00	10.00
599	A068	2.00	1.00	.	.	99.00	3.00
600	A069	2.00	.00	.	.	29.00	2.00
601	A070	15.00	4.00	.	.	416.00	19.00
602	A071	.00	.00	.	.	25.00	.00
603	A072	1.00	.00	.	.	77.00	1.00
604	A073	6.00	3.00	.	.	214.00	9.00
605	A074	5.00	1.00	.	.	302.00	6.00
606	A075	.00	.00	.	.	5.00	.00
607	A076	.00	.00	.	.	2.00	.00
608	A077	1.00	1.00	.	.	24.00	2.00
609	A078	40.00	26.00	.	.	1002.00	66.00
610	A079	.00	.00	.	.	14.00	.00
611	A080	3.00	3.00	.	.	96.00	6.00
612	A081	2.00	.00	.	.	55.00	2.00
613	A082	.00	.00	.	.	48.00	.00
614	A083	.00	.00	.	.	23.00	.00
615	A084	14.00	9.00	.	.	275.00	23.00
616	A085	5.00	.00	.	.	90.00	5.00
617	A086	1.00	.00	.	.	26.00	1.00
618	A087	.00	.00	.	.	10.00	.00
619	A088	.00	.00	.	.	3.00	.00
620	A089	2.00	3.00	.	.	224.00	5.00
621	A090	.00	.00	.	.	27.00	.00
622	A091	5.00	1.00	.	.	246.00	6.00
623	A092	1.00	.00	.	.	56.00	1.00
624	A093	3.00	2.00	.	.	82.00	5.00

Case Summaries

	PRPLMB CH	Undervote s	Overvotes	BLACK	TOTALRE G	BALLOTS	NOVOTES
625	A094	13.00	2.00	.	.	402.00	15.00
626	A095	.00	.00	.	.	6.00	.00
627	A096	2.00	2.00	.	.	243.00	4.00
628	A097	.00	1.00	.	.	21.00	1.00
629	A098	.00	.00	.	.	30.00	.00
630	A099	1.00	.00	.	.	10.00	1.00
631	A100	2.00	1.00	.	.	49.00	3.00
632	A101	.00	.00	.	.	5.00	.00
633	A102	.00	.00	.	.	5.00	.00
634	A103	.00	.00	.	.	4.00	.00
635	A104	1.00	.00	.	.	5.00	1.00
636	A105	.00	.00	.	.	10.00	.00
637	A106	3.00	.00	.	.	27.00	3.00
Total	N 637	637	637	531	531	637	637

**THE FLORIDA ELECTION REPORT:
DISSENTING STATEMENT BY COMMISSIONER ABIGAIL THERNSTROM
AND COMMISSIONER RUSSELL G. REDENBAUGH**

The United States Commission on Civil Rights, charged with the statutory duty to investigate voting rights violations in a fair and objective manner, has produced a report that fails to serve the public interest. *Voting Irregularities Occurring in Florida During the 2000 Presidential Election* is prejudicial, divisive, and injurious to the cause of true democracy and justice in our society. It discredits the Commission itself and substantially diminishes its credibility as the nation's protector of our civil rights.

The Commission's majority report is a partisan document that has little basis in fact. Its conclusions are based on a deeply flawed statistical analysis coupled with anecdotal evidence of limited value, unverified by a proper factual investigation. This shaky foundation is used to justify charges of the most serious nature – questioning the legitimacy of the American electoral process and the validity of the most recent presidential election. The report's central finding – that there was “widespread disenfranchisement and denial of voting rights” in Florida's 2000 presidential election – does not withstand even a cursory legal or scholarly scrutiny. Leveling such a serious charge without clear justification is an unwarranted assault upon the public's confidence in American democracy.

Using all the variables in the statistical analysis in the majority report, Dr. John Lott, an economist at Yale Law School, was unable to find a consistent, statistical significant relationship between the share of voters who were African Americans and the ballot spoilage rate.

Furthermore, Dr. Lott conducted additional analysis beyond the report's parameters, looking at previous elections, demographic changes, and rates of ballot spoilage. His analysis found *little relationship at all between racial population change and ballot spoilage*, and the one correlation that is found runs *counter* to the majority report's argument: An *increase* in the black share of the voting population is linked to a slight *decrease* in spoilage rates, although the difference is not statistically significant.

Nothing is more fundamental to American democracy than the right to vote and to have valid votes properly counted. Allegations of disenfranchisement are the fertile ground in which a dangerous distrust of American political institutions thrives. By basing its conclusion on allegations that are driven by partisan interests and which lack factual basis, the majority on the Commission has needlessly fostered public distrust, alienation and manifest cynicism. The intent of the partisan conclusions of the report is to label the outcome of the 2000 election as illegitimate, thereby calling into question the most fundamental basis of American democracy.

Obvious partisan passions not only destroyed the credibility of the report itself, but informed the entire process that led up to the final draft. At the Florida hearings,

Governor Jeb Bush was the only witness who was not allowed to make an opening statement. The Chair, Mary Frances Berry, was quoted in the Florida press as comparing the Governor and Secretary of State to “Pontius Pilate... just washing their hands of the whole thing.” On March 9, six commissioners voted to issue a “preliminary assessment” – in effect, a verdict – long before the staff had completed its review of the evidence.

The statistical analysis upon which many of the final report’s findings are based was conducted by an historian with close ties to Albert Gore, Jr. The report claims that “affected agencies were afforded an opportunity to review applicable portions”; in fact, affected parties were never given a look at the preliminary assessment, and had only ten days to review and respond to the final report, in violation of established procedures and previous promises. Our memoranda to the chief of staff throughout the process regularly went unanswered.

Most recently, a request for basic data to which we – and indeed, any member of the public – were entitled was denied to us. The Commission hired Professor Allan Lichtman, an historian at American University, to examine the relationship between spoiled ballots and the race of voters. We asked for a copy of the machine-readable data that Professor Lichtman used to run his correlations and regressions. That is, we wanted his computer runs, the data that went into them, and the software he used. Obviously, he could have easily given that to us. The Commission had the temerity to tell us that it did not exist – that the data as he organized it for purposes of analysis was literally unavailable. Professor Lichtman, who knows that as a matter of scholarly convention such data should be shared, also declined to provide it. Evidently, Dr. Lichtman and the majority on the Commission have no confidence in their own numbers and analysis.

Process matters. And that is why it is important to examine, with integrity, violations of the electoral process in Florida and other states. When the process is right, participants on another day can revisit the outcome – use the procedures (fair and thus trusted) to debate policy or to vote again. But when the process is corrupt, the conclusions themselves (current and future) are deeply suspect. The Commission investigated procedural irregularities in Florida; it should have gotten its own house in order first.

Had the process been right, the substance might have been much better. The Commission’s staff would have received feedback from Florida officials, commissioners, and other concerned parties, on the basis of which it might have revised the report. It should be consulting with commissioners in the course of drafting a report, including those who do not share the majority view. As it is, at great expense, the Commission has written a dangerous and divisive document. And thus it certainly provides no basis upon which to reform the electoral process in Florida or anywhere else.

In the pages below, we will argue:

I. The statistical analysis done for the Commission by Dr. Allan Lichtman does not support the claim of disfranchisement.

The most sensational “finding” in the majority report is the claim that black voters in the Florida election in 2000 were nine times as likely as other residents of the state to have cast ballots that did not count in the presidential contest, and that 52 percent of all disqualified ballots were cast by black voters in a state whose population is only 15 percent black.

The charge is unsupported by the evidence.

(a) Disfranchisement is not the same as voter error. The report talks about voters likely to have their ballots spoiled; in fact, the problem was undervotes and overvotes, some of which were deliberate (the undervotes, particularly). But the rest are due to voter error. Or machine error, which is random, and thus cannot “disfranchise” any population group. It was certainly not due to any conspiracy on the part of supervisors of elections; the vast majority of spoiled ballots were cast in counties where the supervisor was a Democrat.

The majority report argues that race was the dominant factor explaining whose votes counted and whose were rejected. But the method used rests on the assumption that if the proportion of spoiled ballots in a county or precinct is higher in places with a larger black population, it must be African American ballots that were disqualified. That conclusion does not necessarily follow, as statisticians have long understood.

We have no data on the race of the individual voters. And it is impossible to develop accurate estimates about how groups of individuals vote (or misvote) on the basis of county-level or precinct-level averages.

(b) The majority’s report assumes race had to be the decisive factor determining which voters spoiled their ballots. Indeed, its analysis suggests that the electoral system somehow worked to cancel the votes of even highly educated, politically experienced African Americans.

In fact, the size of the black population (by Dr. Lichtman’s own numbers) accounts for only one-quarter of the difference between counties in the rate of spoiled ballots (the correlation is .5). However it is clear we cannot make meaningful statements about the relationship between one social factor and another without controlling for or holding constant other variables that may affect the relationship we are assessing.

The more complex regression analysis that Dr. Lichtman conducted does not isolate the effect of race per se from that of other variables that are correlated with race: poverty, income, literacy, and the like. Or at least, he fails to provide the details – the regression models – essential to understanding his dismissal of these other factors. And, most

important, he never reports how much of the variance between counties in the proportion of ballots spoiled can be explained by a more complex model, such as the one developed by our own expert, Dr. John Lott of the Yale Law School. Our model enables us to explain 70 percent of the variance (three times as much as Dr. Lichtman was able to account for) without considering racial composition at all.

In fact, using the variables provided in the report, Dr. Lott was unable to find a consistent, statistically significant relationship between the share of voters who were African American and the ballot spoilage rate. Further, removing race from the equation, but leaving in all the other variables only reduced ballot spoilage rate explained by his regression by a trivial amount. In other words, the best indicator of whether or not a particular county had a high or low rate of ballot spoilage is not its racial composition. Non-racial information is much more useful.

(c) *The obvious explanation for a high number of spoiled ballots among black voters is their lower literacy rate.* Dr. Lichtman offers only a cavalier discussion of the question, and his conclusion that literacy rates were irrelevant makes no sense. (In fact, the report itself recommends “effective programs of education for voters...”.) Moreover, the data upon which he relies are too crude to allow meaningful conclusions. They are not broken down by race, for one thing.

(d) *First time voters:* An important source of the high rate of ballot spoilage in some Florida communities may have been that a sizable fraction of those who turned out at the polls were there for the first time and were unfamiliar with the electoral process. Impressionistic evidence suggests that disproportionate numbers of black voters fell into this category. The majority report's failure to explore – or even mention – this factor is a serious flaw.

(e) *The Time Dimension:* Most social scientists understand that the interpretation of social patterns on the basis of observations at just one point in time is dangerously simplistic. But that is all the majority report offers. It focuses entirely on the 2000 election returns. Dr. Lott did two analyses that take the time dimension into account.

He looked at spoilage rates by county for the 1996 and 2000 presidential races, and compared them with demographic change. A rise in a county's black population did not result in a similar rise in spoilage rates, suggesting, again, that race is not the explanatory factor.

He also examined data from the 1992, 1996, and 2000 races, and found that the “percent of voters in different race or ethnic categories is never statistically related to ballot spoilage.”

(f) *County-level data v. Precinct data:* The majority report, as earlier noted, speaks of black ballots as nine times more likely to be spoiled than white ballots. And it presents some precinct-level data, providing estimates based on smaller units that are likely to be

somewhat closer to the truth than estimates based on inter-county variations. Dr. Lichtman's own numbers show that county-level and precinct-level data yielded quite different results. Ballot rejection rates dropped significantly when the precinct numbers were examined, even though looking at heavily black precincts should have sharpened the difference between white and black voters, rather than diminishing it. Dr. Lichtman obscures this point by shifting from ratios to percentage point differences.

Dr. Lichtman's precinct analysis is just as vulnerable to criticism as his county-level analysis. It employs the same methods, and again ignores relevant variables that provide a better explanation of the variation in ballot spoilage rates.

(g) *Who Is Responsible for Elections?* The majority report charges "disenfranchisement" and lays the blame at the feet of state officials – particularly Governor Jeb Bush and Secretary of State Kathryn Harris. In fact, however, elections in Florida are the responsibility of 67 county supervisors of election. And, interestingly, in all but one of the 25 counties with the highest spoilage rates, the election was supervised by a Democrat – the one exception being an official with no party affiliation.

Dr. Lott added another variable to the mix: the race of the election supervisor. And he found that having Democratic officials in charge increases the ballot spoilage rate substantially, but the effect is even stronger when that Democratic official is African American. Obviously no officials were out to disfranchise black voters, and the correlation points once again to the limitations of ecological regressions.

The majority report argues that much of the spoiled ballot problem was due to voting technology. But Democratic Party officials decided on the type of machinery used, including the optical scanning system in Gadsden County, the state's only majority-black county and the one with the highest spoilage rate.

(h) *Hispanics have been mostly forgotten.* Hispanics are a protected group under the Voting Rights Act. Moreover, the majority report speaks repeatedly of the alleged disenfranchisement of "minorities" or "people of color." One section is headed "Votes in Communities of Color Less Likely to be Counted." And yet the crucial statistical analysis provided in Chapter 1 entirely ignores Florida's largest minority group – people of Hispanic origin. The analysis in the Commission's report thus excluded more Floridians of minority background than it included.

The analysis conducted by Dr. Lichtman treats not only Hispanics but Asians and Native Americans as well as if they were, in effect, white. He dichotomizes the Florida population into two groups, blacks and "nonblacks."

In the revised report, Dr. Lichtman did add one graph dealing with Hispanics in the appendix, but this addition to his statistical analysis is clearly only an afterthought. At the June 8th Commission hearing Dr. Lichtman stated he looked at this issue only at the last minute (literally the night before). Obviously, his primary analysis ignored Hispanics.

II. The Evidence Fails To Support the Claim of Systematic Disfranchisement

Based on witnesses' limited (and often, uncorroborated) accounts, the Commission insists that there were "countless allegations" involving "countless numbers" of Floridians who were denied the right to vote. This anecdotal evidence is drawn from the testimony of 26 "fact witnesses," residing in only eight of the state's 67 counties.

In fact, however, many of those who appeared before the Commission testified to the absence of "systemic disenfranchisement" in Florida. Thus, a representative of the League of Women Voters testified that there had been many administrative problems, but stated: "We don't have any evidence of race-based problems... we actually I guess don't have any evidence of partisan problems." And a witness from Miami-Dade County, who said she attributed the problems she encountered not to race but rather to inefficient poll workers: "I think [there are] a lot of people that are on jobs that really don't fit them or they are not fit to be in."

Without question, some voters did encounter difficulties at the polls, but the evidence fails to support the claim of systematic disfranchisement. Most of the complaints the Commission heard in direct testimony involved individuals who arrived at the polls on election day only to find that their names were not on the rolls of registered voters. The majority of these cases many due to bureaucratic errors, inefficiencies within the system, and/or error or confusion on the part of the voters themselves.

III The Commission Failed to Distinguish Between Bureaucratic Problems and Actual Discrimination

Other witnesses did offer testimony suggesting numerous problems on election day. But the Commission, in discussing these problems, failed to distinguish between mere inconvenience, difficulties caused by bureaucratic inefficiencies, and incidents of potential discrimination. In its report, the complaint from the voter whose shoes were muddied on the path to his polling place is accorded the same degree of seriousness as the case of the seeing-impaired voter who required help in reading the ballot, or the African American voter who claimed she was turned away from the polls at closing time while a white man was not.

There were certainly jammed phone lines, confusion and error, but none of it added up to widespread discrimination. Many of the difficulties, like those associated with the "butterfly ballot," were the product of good intentions gone awry or the presence of many first-time voters. The most compelling testimony came from disabled voters who faced a range of problems, including insufficient parking and inadequate provision for wheelchair access. This problem, of course, had no racial dimension at all.

IV. The Majority Report's Relies Upon a Warped Interpretation of the Voting Rights Act

The report essentially concludes that election procedures in Florida were in violation of the Voting Rights Act, but the Commission found no evidence to reach that conclusion – only a court can – and has bent the 1965 statute totally out of shape.

The question of a Section 2 violation can only be settled in a federal court. Plaintiffs who charge discrimination must prevail in a trial in which the state has a full opportunity to challenge the evidence. To prevail, plaintiffs must show that “racial politics dominate the electoral process,” as the 1982 Senate Judiciary Committee Report stated in explaining the newly amended Section 2.

The majority’s report implies that Section 2 aimed to correct all possible inequalities in the electoral process. Had that been the goal, racially disparate registration and turnout rates – found nearly everywhere in the country – would constitute a Voting Rights Act violation. Less affluent, less educated citizens tend to register and vote at lower rates, and, for the same reasons, are likely to make more errors in casting ballots, especially if they are first time voters. Neither the failure to register nor the failure to cast a ballot properly – as regrettable as they are – are Section 2 violations.

Thus, despite the thousands of voting rights cases on the books, the majority report cannot cite any case law that suggests punch card ballots, for instance, are potentially discriminatory. Or that higher error rates among black voters suggest disfranchisement.

There is good reason why claims brought under Section 2 must be settled in a federal court. The provision requires the adjudication of competing claims about equal electoral opportunity – an inquiry into the complex issue of racial fairness. The Commission is not a court and cannot arrive at verdicts that belong exclusively to the judiciary. Yet, while the majority report does admit that the Commission cannot determine if violations of the Voting Rights Act have actually occurred, in fact it unequivocally claims to have found “disenfranchisement,” under the terms of the statute.

V. Misplaced Responsibility for Election Procedures

The report holds Florida’s public officials, particularly the governor and secretary of state responsible for the discrimination that it alleges. “State officials failed to fulfill their duties in a manner that would prevent this disenfranchisement,” it asserts. In fact, most of the authority over elections in Florida resides with officials in the state’s 67 counties, and all of those with the highest rates of voter error were under Democratic control.

The report charges that the governor, the secretary of state and other state officials should have acted differently in anticipation of the high turnout of voters. What the Commission actually heard from “key officials” and experts was that the increase in registration, on average, was no different than in previous years; that since the development of “motor

voter” registration, voter registration is more of an ongoing process and does not reach the intensity it used to just prior to an election; and that, in any event, registration is not always a reliable predictor for turnout.

There was a 65 percent increase in African American voters, 40 percent of whom were coming to the polls for the first time. But this was an unanticipated event.

The majority report also faults Florida state officials with having failed to provide the 67 supervisors of elections with “adequate guidance or funding” for voter education and training of election officials. What the report pointedly ignores is that the county supervisors are independent, constitutional officers who make their budget requests to the boards of county commissioners, not to the state.

VI. The Commission Provides Only A One-Sided Examination of the Felon List

The report asserts that the use of a convicted felons list “has a disparate impact on African Americans.” “African Americans in Florida were more likely to find their names on the list than persons of other races.” Of course, because a higher proportion of blacks have been convicted of felonies in Florida, as elsewhere in the nation. But there is no evidence that the state targeted blacks in a discriminatory manner in constructing a purge list, or that the state made less of an effort to notify listed African Americans and to correct errors than it did with whites. The Commission did not hear from a single witness who was actually prevented from voting as a result of being erroneously identified as a felon. Furthermore, whites were twice as likely as blacks to be placed on the list erroneously, not the other way around.

The compilation of the purge list was part of an anti-fraud measure enacted by the Florida legislature in the wake of a Miami mayoral election in which ineligible voters cast ballots. The list for the 2000 election was overinclusive, and some supervisors made no use of it. (The majority report did not bother to ask how many counties relied upon it.) On the other hand, according to the Palm Beach Post, more than 6,500 ineligible felons voted.

Based on extensive research, the Miami Herald concluded that the biggest problem with the felon list was not that it wrongly prevented eligible voters from casting ballots, but that it ended up allowing ineligible voters to cast a ballot. The Commission should have looked into allegations of voter fraud, not only with respect to ineligible felons, but allegations involving fraudulent absentee ballots in nursing homes, unregistered voters, and so forth. Across the country in a variety of jurisdictions, serious questions about voter fraud have been raised.

VII. Unwarranted Criticism of Florida Law Enforcement

Despite clear and direct testimony during the hearings, as well as additional information submitted by Florida officials after the hearings, the report continues to charge the Florida

Highway Patrol with behavior that was “perceived” by “a number of voters” as “unusual” (and thus somehow “intimidating”) on election day. In fact, only two persons are identified in the report as giving their reactions to activities of the Florida Highway Patrol on election day. One testified regarding a police checkpoint, and the other testified that he found it “unusual” to see an empty police car parked outside of a polling facility. Neither of these witnesses’ testimony indicates how their or others’ ability to vote was impaired by these events.

VIII. Procedural Irregularities at the U.S. Commission on Civil Rights

Procedural irregularities have seriously marred the majority report. In writing the report, the Commission ignored not only the rules of evidence, but the agency’s own procedures for gathering evidence. By arguing that “every voice must be heard,” while in fact stifling the voice of the political minority on the Commission itself, it is guilty of gross hypocrisy.

Among the procedural problems in the drafting of the report:

- Republican-appointed commissioners were never asked for any input in the composition of the witness list or in the drafting of the report itself. In fact, we were denied access to the witness lists altogether. An outside expert, with strong partisan affiliations, was hired to do a statistical analysis without consultation with commissioners.
- At the hearings in Florida, the secretary of state and other Republican witnesses were treated in a manner that fell far short of the standard of fair, equal and courteous.
- The majority reached and released its verdict, in the form of a “preliminary assessment,” long before the report was ready for discussion.
- Florida authorities who might be defamed or degraded by the report were not given the proper time to review the parts of the report sent to them – to say nothing of their right to review the report in its entirety.
- Affected agencies were not given adequate time to review applicable provisions, and a draft final report was made available to the press that included no corrections or amendments on the basis of affected agency comments.
- Commissioners were given only three days to read the report – one less day than three major newspapers had – before its approval by the Commission at the June 8 meeting. This and other aspects of the process were contrary to the schedule, and made careful, detailed feedback at the time literally impossible.

In its efforts to investigate procedural irregularities in Florida, the Commission has

clearly engaged in serious procedural irregularities of its own. By consistently violating its own procedures for fair and objective fact-finding, the Commission, undermines its credibility and calls into question the validity of its work.

Part I: The Commission's Statistical Analysis Fails to Prove Disfranchisement

The statistical analysis done for the Commission by Dr. Allan Lichtman does not support the claim of disfranchisement. The most sensational "finding" in the majority report is the claim that black voters in Florida were nine times as likely as other residents of the state to have cast ballots that did not count in the presidential contest, and that 52 percent of all disqualified ballots were cast by black voters in a state whose population is only 15 percent black. The charge is unsupported by the evidence.

The most sensational "finding" in the majority report, and the one that received most attention in the press, is the claim that black voters in the Florida election in 2000 were allegedly nine times as likely as other residents of the state to have cast ballots that did not count in the presidential contest, and that 52 percent of all disqualified ballots were cast by black voters in a state whose population is only 15 percent black. This charge was naturally newsworthy; however, it is demonstrably false.

Dr. Lichtman's statistical analysis is badly flawed, strongly slanted to support preconceived conclusions that cannot withstand careful scrutiny. The bold assertion that 52 percent of disqualified ballots were cast by blacks, and that blacks were nine times as likely to have their ballots rejected as non-blacks, we will show in detail below, is best described as nothing more than a wild guesstimate. Dr. Lichtman's other estimates are not much more reliable, and he fails to examine the impact of some variables that were of great importance in determining the outcome.

Below we provide a broader and more sophisticated regression analysis prepared for us by an econometrician, an analysis which clashes with that provided in the majority report on virtually every important point.

Playing Semantic Games: Disfranchisement, Voter Choice, or Voter Error?

To begin with, disfranchisement is conflated with voter error. The report talks about voters likely to have their ballots spoiled; in fact, the problem was undervotes and overvotes, some of which (particularly undervotes) were deliberate. But the rest are due to voter error. Or machine error, which is random, and thus cannot "disfranchise" any population group. It was certainly not due to any conspiracy on the part of supervisors of election; the vast majority of spoiled ballots cast in counties where the supervisor was a Democrat – a point to which we will return.

The majority report argues that race was the dominant factor explaining whose votes counted and whose were rejected. But the method used rests on the assumption that if the proportion of spoiled ballots in a county or precinct goes up at the same time that the proportion of black voters rises, it must be African American ballots that were disqualified. That conclusion does not necessarily follow, as statisticians have long understood.

We have no data on the race of the individual voters. And it is impossible to develop accurate estimates about how groups of individuals vote (or misvote) on the basis of county-level or precinct-level averages.

It is important to note at the outset that the majority report's account of Dr. Lichtman's findings employs language that serves to obscure the true nature of the phenomenon under investigation. These pages are filled with references to the "disenfranchisement" of black voters, as if African Americans in Florida last year were faced with obstacles comparable to poll taxes, literacy tests, and other devices by which southern whites in the years before the Voting Rights Act of 1965 managed to suppress the black vote and keep political office safely in the hands of candidates committed to the preservation of white supremacy.

Black votes, we are told again and again, were "rejected" in vastly disproportionate numbers. "Countless Floridians," the report concludes, were "denied... their right to vote," and this "disenfranchisement fell most harshly on the shoulders of African Americans."¹ In a particularly masterful bit of obfuscation, the majority report declares that, "persons living in a county with a substantial African American or people of color population are more likely to have their ballots spoiled or discounted than persons living in the rest of Florida." This alleged fact, the reader is told, "starts to prove the Florida election was not 'equally open to participation' by all."²

Let us be clear: According to Dr. Lichtman's data, some 180,000 Florida voters in the 2000 election, 2.9 percent of the total, turned in ballots that did not indicate a valid choice for a presidential candidate and thus could not be counted in that race. Six out of ten of these rejected ballots (59 percent) were "overvotes" – ballots that were disqualified because they indicated more than one choice for president. Another 35 percent were "undervotes," ballots lacking any clear indication of which presidential candidate the voter preferred.³ (The other 6 percent were invalid for some other unspecified reason. Since they are ignored in the majority report, they will be here as well.)

Hence the chief problem in Florida was voters who cast a ballot for more than one candidate for the same office, and the second most common problem was voters who registered no choice at all. Ballots were "rejected," in short, because it was impossible to determine which candidate – if any – voters meant to choose for president.

Some of these overvotes and undervotes, it should be noted, may have been the result of

¹ Report, 154

² Report, 18.

³ Report, 21. Note that later in the report, on page 148, the majority asserts that it was highly anomalous that 63 percent of spoiled ballots in Palm Beach County were overvotes, and blames the alleged anomaly on the infamous butterfly ballot. The pattern, according to the report, was "just the opposite of what we normally observe, which is five percent or less of the spoiled ballots." How could the author of this passage possibly think that 5 percent or less was the norm for overvotes in Florida when the Lichtman cited earlier reveal earlier show that fully 59 percent of all the spoiled ballots in the state were overvotes

deliberate choices on the part of voters. In fact, Chair Mary Frances Berry remarked at the hearing in Miami that she herself has sometimes “over-voted deliberately.”

Chair Berry cannot be the only voter in the United States to make such a choice. According to the exhaustive investigation of the ballots conducted by the *Miami Herald*, 10 percent of all the overvotes in the state showed votes for both Bush and Gore.⁴ Presumably, these were voters attempting to convey the message that either candidate would be equally acceptable. Some voters in Citrus County put giants X's through the names of all presidential candidates, perhaps to indicate “none of the above.”⁵

Similarly, some of the undervotes under discussion here must have been recorded by people who could not settle on a choice for president but who turned up to register their preferences in other contests. We know from the *Miami Herald's* inspection of the 61,111 undervoted ballots in the state that almost half – 46.2 percent – had no markings at all for president.⁶ It seems reasonable to assume that most of them did not *intend* to register a choice among the presidential candidates, and had come to the polls to vote for other offices.

If these unmarked ballots were produced by voters who really did not want to make a choice for president, that would reduce the number of so-called “spoiled ballots” in the state from 180,000 to 152,000. It would be interesting if we could make a similar statistical estimate of the proportion of overvoters who did it deliberately; unfortunately that is impossible.

What is clear is this: In these instances, overvoting and undervoting are not “problems” that require “remedies.” And they certainly are not evidence that anyone is being “disenfranchised.” They represent the actual preferences of the voters in question, and it is misleading to label them “spoiled” ballots at all.

The majority would have us believe that “countless” numbers of Floridians who were legally entitled to vote had their ballots “spoiled.” In fact, we are not talking about “countless” ballots. We are talking about 180,000 invalid ballots, *minus* those that did not indicate a clear presidential choice because the voter had not decided on a presidential preference. Thus the 180,000 figure, 2.9 percent of the total, is an upper bound estimate of the true figure, which is undoubtedly smaller by an unknown amount. The county-by-county figures on so-called spoiled ballots are likewise exaggerations, biased upward to an unknown amount.

Still, there are overvotes and undervotes that probably did not reflect the will of the voters. What accounts for them? The opening paragraph of the introduction to the

⁴ Martin Merzer, *The Miami Herald Report: Democracy Held Hostage* (New York: St. Martin's Press, 2001), 194.

⁵ *Ibid.*, 195.

⁶ *Ibid.*, 230-231.

majority report suggests that the issue is whether "votes that were cast were properly tabulated."⁷ What does this mean? Are we to believe African Americans cast their ballots correctly on election day, but that the ballots were incorrectly tabulated by the machines, or the people who conducted manual recounts in some counties? There is no evidence whatsoever to support that implication.

Some of the 180,000 rejected ballots may have the result of machine error, of course – but very few. Machine error, according to experts who have studied it, is rare, involving at most 1 in 250,000 votes cast.⁸ And machine error is obviously random, and thus cannot "disenfranchise" any population group. No one has yet shown that a VotoMatic machine can be programmed to distinguish black voters from others and to record votes by African Americans in such a way as to facilitate their rejection.

There is only one other explanation of what the Commission tendentiously describes as "disenfranchisement." The problem is *voter error*, a term that astonishingly appears nowhere in the majority report. This is the central fact the majority report attempts to obscure. Some voters simply did not fill out their ballots according to the instructions. They failed to abide by the very elementary rule that you must vote for one and only one candidate for the office of president of the United States, and therefore their attempt to register their choice failed. Their ballots were rejected, and their votes did not count.

The Ecological Fallacy

The majority report argues that race was the dominant factor explaining whose votes counted and whose were rejected. But the method used rests on the assumption that if the proportion of spoiled ballots in a county or precinct goes up at the same time that the proportion of black voters rises, it must be African American ballots that were disqualified. That conclusion does not necessarily follow, as statisticians have long understood.

We have no data on the race of the individual voters. And it is impossible to develop accurate estimates about how groups of individuals vote (or misvote) on the basis of county-level or precinct-level averages.

Did African American voters in the 2000 Florida election have more difficulty completing their ballots correctly than did other citizens of the state, and hence have a higher rate of ballot rejection? Quite possibly so, but Dr. Lichtman's estimates upon which the Commission relied are open to very serious doubt. At best, they are highly exaggerated and, strong evidence (Dr. Lott's research, discussed below) suggests they are

⁷ Report, 1

⁸ According to the Caltech/MIT Voting Project, "state and federal voting machine certifications tolerate very low machine failure rates: no more than 1 in 250,000 ballots for federal certification and no more than 1 in 1,000,000 in some states." The problem, according to these investigators, has to do with "how people relate to the technologies...." See the Caltech/MIT Voting Project, "A Preliminary Assessment of the Reliability of Existing Voting Equipment," February 1, 2001, 13.

entirely wrong.

How can we figure out whether there were major racial differences in the rate of voter error or ballot spoilage in the 2000 election? We have no data whatever on the race of those individuals who cast invalid ballots. We have secret ballots in the United States, and accordingly cannot know how any individuals actually voted. Thus we cannot know with any precision how particular ethnic or racial groups voted, or at what rate their ballots were actually counted.⁹ Whatever conclusions we draw about the matter must be based on estimates that will be susceptible to error. The question is whether the analysis and interpretations offered in the majority report are at least pretty good approximations of reality. There are many reasons to doubt that they are.

The majority report attempts to draw conclusions about this important matter by examining county-level, and to a limited extent, precinct-level data. It argues that race was the dominant factor explaining whose votes counted and whose votes were rejected. The method employed to reach that conclusion rests on the assumption that if the proportion of spoiled ballots tends to increase across counties or across precincts as the proportion of blacks residents in those counties increases, it must be African American voters whose ballots were disqualified. This simple methodology may seem intuitively appealing – but it is well established that it is often wrong.

Statisticians have long understood the difficulty of making such inferences due to a phenomenon that is known in the social science literature as the “ecological fallacy.” The classic discussion of this issue is in an article that was published half a century ago in the *American Sociological Review*.¹⁰ In that paper, W.G. Robinson reported that had examined the correlation between the proportion of a state's population that was foreign-born and the state's literacy rate. He found, surprisingly, a *positive* correlation between the literacy rate and the proportion of immigrants in the population. Contrary to the conventional wisdom, the larger the foreign-born population, the higher the overall literacy rate was in a state. The correlation was .53, a bit higher than the one found by Dr. Lichtman between race and ballot spoilage rates.

Did that really prove that Americans born abroad were more literate, on the average, than those born within the United States? Robinson chose this case because he had reliable data against which to check the ecological estimate; census data were available for individuals. When Robinson analyzed it, he found that country of birth was negatively correlated with literacy; the actual figure was -.11. Immigrants were actually significantly less likely than natives to be literate, despite the strong state-level correlation suggesting just the opposite.

⁹ Exit polls are commonly used to estimate how particular groups voted, and even they are far from perfect. One flaw is that absentee voters are not represented at all. In any event, we can't tell from an exit poll whether someone failed to complete a valid ballot; if they thought they had erred, presumably they would have had it invalidated and received another.

¹⁰ W.G. Robinson, “Ecological Correlations and the Behavior of Individuals,” *American Sociological Review*, vol. 15 (June, 1950), 351-357.

The state-by-state correlation gave a completely false picture, because it happened that the states with highly literate populations were also more developed economically and attracted more immigrants because jobs were available there. New York, for example, was more literate than Arkansas. It also had a higher fraction of immigrants in its population, but not enough to pull the state average down very far.

A more recent example derives from the work of an eminent mathematical statistician at the University of California at Berkeley, David A. Freedman.¹¹

Using data from the 1995 Current Population Survey, Freedman found that the correlation between the proportion of immigrants in the population of the 50 states and the proportion of families with incomes over \$50,000 in 1994 was .52. Foreign-born Americans, judging from this ecological correlation, were considerably more affluent than their native-born neighbors. But the evidence also allowed Freedman to look at incomes on the individual level. When you do that, it turns out that in the nation as a whole, 35 percent of native-born American families were in the \$50,000 and over income bracket – but only 28 percent of immigrant families were. The true correlation between being foreign-born and having a high family income was not the .52 estimated from state-level data; it was instead a mildly *negative* correlation of -0.05.

In this instance, too, estimates based on ecological correlations were not just a bit off, a little imprecise but still close enough to the truth for most purposes. They were way off the mark, and indeed had falsely transformed relationships that were actually negative into positive ones.

The problem of the ecological fallacy afflicts all of the statistical analyses Dr. Lichtman did for the majority report. We must remember that counties do not vote. Precincts do not vote. Only individuals vote. It is impossible to develop accurate estimates about how groups of individuals vote (or misvote) on the basis of county-level or precinct-level averages.

In his appearance before the June 8, 2001 meeting of the Commission on Civil Rights, Dr. Lichtman sounded a note of caution about his findings. He declared that a correlation does not “by itself prove” that there were “disparate rates” at which ballots by African Americans and “non-African Americans” were rejected.¹² That is certainly true. But he went on to claim that the “more advanced statistical procedures” he employed could reliably do so. Unfortunately, that is not true. The use of ecological regression techniques does not solve the problem of the ecological fallacy, because it depends upon exactly the same aggregated data as simple correlational analysis, and makes the same, often

¹¹ D.A. Freedman, “Ecological Inference and the Ecological Fallacy,” University of California at Berkeley Department of Statistics Technical Report No. 549, Oct. 15, 1999. This paper will appear as a chapter in the forthcoming *International Encyclopedia of the Social Sciences*.

¹² Transcript of June 8, 2001 meeting, 42.

incorrect, "constancy assumption." It assumes that there is no relationship between the composition of geographical areas and the relationship in question, when in fact there often is.

If the information utilized in an analysis is based on averages for geographical units, whether they are counties or precincts, the results will necessarily be imprecise and they may be just plain wrong, as in the example of immigrant literacy levels given above. When David Freedman did an ecological regression of state-level data to assess the relationship between immigration and family income, he found that it estimated that fully 85 percent of foreign-born American families had 1994 family incomes above \$50,000. But the true figure, from individual-level data, was really only 28 percent.¹³ Ecological regression, in this case, yielded results that were wildly mistaken. In another paper, Freedman provided a similar critique of ecological regression estimates of political behavior specifically, in instances in which individual-level data happened to be available, and he found ecological regression estimates to have been highly unreliable.¹⁴

In sum, inferences about individual behavior on the basis of the average distribution of some characteristic across geographical units are sometimes wildly inaccurate. They must be examined with great caution and skepticism. The majority report does not display the necessary caution about what the facts reveal. A more searching analysis, summarized below and spelled out in Appendix I, demonstrates how misleading Dr. Lichtman's findings are.

Factors Other Than Race May Have Explained the Percentage of Spoiled Ballots

The majority's report assumes race had to be the decisive factor – determining which voters spoiled their ballots. Indeed, its analysis suggests that the electoral system somehow worked to cancel the votes of even highly educated, politically experienced African Americans.

In fact, the size of the black population (by Dr. Lichtman's own numbers) accounts for only one-quarter of the difference between counties in the rate of spoiled ballots (the correlation is .5). But Dr. Lichtman knows that we cannot make meaningful statements about the relationship between one social factor and another without controlling for or holding constant other variables that may affect the relationship we are assessing.

The more complex regression analysis that Dr. Lichtman conducted does not, however, isolate the effect of race per se from that of other variables that are correlated with race:

¹³The explanation is that immigrants tend to be attracted to the richer states--California and New York rather than Tennessee and Mississippi. Thus their presence is associated with high average incomes at the state level, but that does not mean that their average incomes are especially high.

¹⁴D. A. Freedman, S. P. Klein, M. Ostland, and M. Robert, "On 'Solutions' to the Ecological Inference Problem," Journal of the American Statistical Association, vol. 93 (December 1998), 1518-1523.

poverty, income, literacy, and the like. Or at least, he fails to provide the details – the regression models – essential to understanding his dismissal of these other factors. And, most important, he never reports how much of the variance between counties in the proportion of ballots spoiled can be explained by a more complex model, such as the one that our own expert, Dr. John Lott, developed. Our model enables us to explain 70 percent of the variance (three times as much as Dr. Lichtman was able to account for) without considering racial composition at all.

In fact, using the variables provided in the report, Dr. Lott was unable to find a consistent, statistically significant relationship between the share of voters who were African American and the ballot spoilage rate. Further, removing race from the equation, but leaving in all the other variables, only reduced the amount of ballot spoilage rate explained by his regression by a trivial amount. In other words, the best indicator of whether or not a particular county had a high or low rate of ballot spoilage is not its racial composition. Non-racial information is much more useful.

Was race itself a decisive factor in determining which voters spoiled their ballots in the 2000 election in Florida, as the majority report contends? Did the electoral system somehow work in such a way that even highly educated, politically experienced African Americans, for example, cast ballots that were somehow spoiled in some unspecified and mysterious way? The majority report claims that the answer was yes, though it provides no indication of how the process worked to produce that result. Dr. Lichtman's statistical analysis, the report claims, demonstrates that such was the case.

It does nothing of the sort, even if we set aside for the sake of argument the serious doubts most statisticians have about the accuracy of any estimate based on an ecological regression or correlation. The report begins with the simple correlation between the percentage of African American registered voters in Florida's counties and the percentage of spoiled ballots. That correlation is .50.¹⁵ Speaking in statistical shorthand, that "explains" 25 percent of the total variance across the counties. (It doesn't necessarily "explain" anything in ordinary language, we shall see later).

In other words, if you want to know why some Florida counties have a high and some a low rate of spoiled ballots, knowing their racial composition only accounts for *one quarter* of the difference.

Social scientists know that a simple correlation of about .5 between two variables has very little meaning. We cannot make meaningful statements about the relationship between one social factor and another without *controlling for* or *holding constant* other variables that may affect the relationship we are assessing.

Dr. Lichtman did perform a more complex regression analysis, so as to isolate the effect of race per se from that of other variables that happen to be correlated with race, such as

¹⁵ Report, 21,

poverty, median income levels, literacy rates and the like. But neither the account of his work provided in the majority report nor the more detailed discussion in June 4 technical report to the commission conform to normal social science practice.¹⁶ The only regression estimates offered are for the same two variables used in his simple correlation – that between race and ballot rejection rates – with the only refinement being that he separates undervotes from overvotes and takes into account the voting system used in each county.

Dr. Lichtman raises the key question: “Is there some other factor which better explains this disparity in ballot rejection rates?” But he simply asserts that the answer is no and moves on, without providing the detail necessary for anyone to know the statistical basis for his opinion. He offers only two sentences claiming that applying controls for education do not weaken the association between race and ballot rejection. But he never discusses the possible influence of any other variables, and he never provides the actual regression models, as is common in reports of quantitative social science research.

Most striking, and most damaging to the Commission’s case, Dr. Lichtman never reports how much more of the variance can be explained by using a more complex model that incorporates other variables.

As we will show below, it is possible to develop a regression model that explains approximately *70 percent* of the variance in ballot spoilage rates, nearly three times as much as Dr. Lichtman has been able to account for, *without taking the racial composition of the counties into account at all*.

This conclusion derives from an analysis performed at our request by a first-rate economist, Dr. John R. Lott, Jr. of the Yale Law School, who was willing to take the time to evaluate the work of the commission and of Dr. Lichtman, and even to gather additional data of his own to further extend the analysis. Lott’s report, with accompanying figures and tables, appears as an appendix to this statement.

Dr. Lott ran a series of regressions, varying the specifications in an effort to replicate Dr. Lichtman’s results. Using all the variables reported in Appendix I in the majority report, he was unable to find a consistent, statistically significant relationship between the share of voters who were African American and the ballot spoilage rate.¹⁷ The coefficient on the percent of voters who were black was indeed positive, but it was statistically insignificant. The chance that the relationship was real was only 50.3 percent, just about the chance of getting tails to come up on any one coin toss and far below the significance level commonly demanded in social science.

Furthermore, when Dr. Lott analyzed the data using a specification that implied that the

¹⁶ Lichtman, “Draft Report on the Racial Impact of the Rejection of Ballots Cast in the 2000 Presidential Election in the State of Florida,” June 4, 2001.

¹⁷ Lott, “Issues in the Interpretation of the Statistical Evidence Employed in the Report of the U.S. Commission on Civil Rights on the 2000 Election in Florida,” 3.

share of African American voters in a county was significantly related to the level of ballot spoilage, he found that it explained hardly any of the overall variance. Removing race from the equation but leaving in all the other explanatory variables only reduced the amount of ballot spoilage explained by his regression from 73.4 percent to 69.1 percent, only a mere 4.3 percentage point reduction (see Lott's Table 2 in the attachment).

Indeed, in none of the other specifications provided in his Table 2 did taking racial information out of the analysis but leaving in other variables reduce by more than 3 percent the amount of variance in the spoiled ballot rate that is explained. *Consequently, it simply is not true that the best indicator of whether or not a particular county had a high or low rate of ballot spoilage is its racial composition.* One can predict that with a much higher degree of confidence by looking at other, non-racial information.

Was Education the Problem?

The obvious explanation for a high number of spoiled ballots among black voters is their lower literacy rate. Dr. Lichtman has a cavalier discussion of the question, and his conclusion that literacy rates were irrelevant makes no sense. (In fact, the report itself recommends "effective programs of education for voters...") Moreover, the data upon which he relies are too crude to allow meaningful conclusions – they are not even broken out by race.

Although it does not take a high level of literacy to follow the instruction, "Vote for ONE of the following," or "Fill in the box next to the name of the candidate you wish to vote for," it does take some reading ability. We know that some Americans today, regrettably, find it extremely difficult to understand even the simplest written instructions. And, unfortunately, this group is disproportionately black. The U.S. Department of Education's 1992 Adult Literacy Study found that 38 percent of African Americans – but only 14 percent of whites – ranked in the lowest category of "prose literacy," which was defined as being unable to "make low-level inferences based on what they read and to compare or contrast information that can easily be found in [a] text."¹⁸

Black Americans, the study found, were 2.7 times as likely as whites to have the lowest level of literacy skills. Likewise, the 1998 National Assessment of Educational Progress found that 43 percent of African American 12th-graders had reading skills that were "Below Basic," as compared to just 17 percent of whites.¹⁹ Black students were 2.5 times as likely as whites to lack elementary reading skills. Among adults employed full-time,

¹⁸National Center for Education Statistics, Adult Literacy in America: A First Look at the Results of the National Adult Literacy Survey, National Center for Education Statistics (Washington, D.C.: U.S. Government Printing Office, 1993), 18, 113.

¹⁹National Center for Education Statistics, NAEP 1998 Reading Report Card for the Nation and the States, NCES 1999-500 (Washington, D.C.: U.S. Department of Education, 1999), 70.

blacks are 4.1 times more likely than whites to be in the lowest prose literacy category.²⁰

National studies provide no data on Florida specifically. However, we know from the National Assessment of Educational Progress that black 4th- and 8th-graders in Florida (no state-level data is available for 12th-graders) are no better readers than their counterparts elsewhere. Indeed, their scores are below the national average for African Americans.²¹ No fewer than 57 percent of Florida's black 8th-graders in 1998 were Below Basic in reading, 10 points above the national average for African Americans, and 2.7 times as high as the white figure.

The majority report, though, denies that racial differences in literacy levels could be the source of the problem. It devotes only a brief paragraph to the matter, claiming that "a multiple regression analysis that controlled for the percentage of high school graduates and the percentage of adults in the lowest literacy category failed to diminish the relationship between race and ballot rejection."²²

But the regression results themselves are not provided for the critical reader to assess. When one turns to Dr. Lichtman's actual report for greater illumination, one finds nothing more than the exact language used in the commission report. This is a cavalier way to treat an issue as serious as this one.

The claim that the incidence of ballot spoilage or voter error is unrelated to education is counter-intuitive. It is also extremely puzzling, because just a few pages later in the same chapter the report addresses possible solutions to the problem. It urges the adoption of optical scanning systems with immediate feedback to voters throughout Florida, but then goes on to say that this would not "eliminate the disparity between the rates at which ballots cast by African Americans and whites are rejected." It estimates that it would only cut the disparity by about half. What else could be done? The Commission's answer is "effective programs of education for voters, for election officials, and for poll workers."²³

The commission majority seems to be declaring both that:

1. The lower average level of literacy among Florida's blacks has nothing to do with the allegedly higher rate of voter error by blacks; and
2. The solution to this problem is for the state of Florida to launch a huge new program designed to educate black voters on how to vote successfully.

The logic eludes us.

²⁰ National Center for Education Statistics, *Literacy in the Labor Force: Results from the National Adult Literacy Survey*, NCES 1999-470 (Washington, D.C.: U.S. Department of Education, 1999), 57.

²¹ *NAEP 1998 Reading Report Card*, 260, and data from the NAEP website.

²² Report, 22; Lichtman Report, 6.

²³ Report, 34.

Dr. Lichtman's attempt to assess the role of education is cursory, and the data upon which he relies is too crude to allow meaningful conclusions. The "synthetic estimates of adult literacy proficiency" he uses have wide confidence intervals – an average of 6 percent.²⁴ More important, the literacy data Dr. Lichtman used in his analysis are not broken down by race. So they cannot tell us anything about whether the small fraction of a county's voters who failed to cast a ballot successfully were people who had difficulty reading and *what the racial composition of that group might be*. Remember that the highest rate of ballot spoilage in any county was 12.4 percent, and that it was below 5 percent in nearly two-thirds of the counties. So we are talking about a very small group, and one whose presence is not likely to show in county-wide averages.

Palm Beach County, for example, led the state in the number of spoiled ballots – nearly 30,000. Some 6.4 percent of all the ballots cast there were invalid. The proportion of Palm Beach residents who ranked in the bottom literacy category was 22 percent, a little below the state average of 25 percent. And the proportion who had attended college was 48 percent, again above the state average. But this does not allow us to conclude that the 6.4 percent of Palm Beach voters who failed to complete their ballots successfully were not primarily people who had difficulty in reading, comprehending and following ballot instructions.

How Many of the Spoiled Ballots Were Cast by First-time Voters?

An important source of the high rate of ballot spoilage in some Florida communities is that a sizable fraction of those who turned out at the polls were there for the first time and did not grasp the rules of the electoral game. Impressionistic evidence suggests that disproportionate numbers of black voters fell into this category. The majority report's failure to explore – or even mention – this factor is a serious limitation.

A closely related and complementary explanation of what the majority report claims was a racial difference in rates of ballot spoilage is that an unusually high proportion of the blacks who voted in Florida in 2000 were first-time voters. According to estimates widely cited in the press, as many as 40 percent of the African Americans who turned up at the polls in Florida in November had never voted before. For the first time in Florida history, it was reported, the African American share of the total vote was larger than the black share of the state's population. If so, it would not be surprising if disproportionate numbers of first-time voters made mistakes, since this was a process completely unfamiliar to them.

It is startling and very revealing that neither the majority report nor Dr. Lichtman's report even mention this as a possible source of voter error, much less choose to investigate it. It could easily have been done with the help of commission staff that surely was available to Dr. Lichtman. One would need to get the data on votes cast by race for Florida's

²⁴ CSAS website

counties over the past three or four presidential elections. Adding in information on demographic change over period, one could come up with usable estimates of the minimum proportion of black voters appearing at the polls for the first time.

Regrettably, we did not have the time or resources necessary to compile this information and analyze it. We strongly suspect that an objective analysis that included information on this point would do a great deal to explain what occurred on Election Day.

The Missing Dimension: The Failure to Analyze Change Over Time

Most social scientists understand that the interpretation of social patterns on the basis of observations at just one point in time is fraught with peril. Dr. Lott did two analyses that take the time dimension into account. He looked at spoilage rates by county for the 1996 and 2000 presidential races, and compared them with demographic change. A rise in the black population in a county did not result in a similar rise in spoilage rates, suggesting, again, that race is not the explanatory factor. He also examined data from the 1992, 1996, and 2000 races, and found that the "percent of voters in different race or ethnic categories is never statistically related to ballot spoilage."

All of the statistical analysis developed by Dr. Lichtman concerns one moment in time – election day, November 2000. It is purely “cross-sectional” analysis. Most social scientists and historians recognize that the interpretation of social patterns on the basis of observations at just one point in time is fraught with peril. Relationships suggested by cross-sectional analysis often do not hold up when one adds the time dimension, and looks back at earlier data concerning the same phenomenon. It is curious that a professional historian like Dr. Lichtman did not choose to place the 2000 election results in broader perspective by examining earlier Florida elections as well. Surely he did not think that there was no such thing as an undervote or an overvote in Florida in the years prior to the Bush v. Gore contest.

Dr. Lott did two analyses that take the time dimension into account.

First, he looked at spoilage rates by county for the 1996 and 2000 presidential races and asked how they might have been affected by changes in the racial demographics of those counties.

If the majority report’s simple link between race and “disenfranchisement” were true, counties that had a sharp rise in the proportion of African American residents would be expected to also see a strong increase in rates of ballot spoilage, and those in which the black population was shrinking proportionally would be expected to also have a declining rate of ballot spoilage.

But when you look at the scatter plots in Dr. Lott’s report (Figures 1-4), that doesn’t prove to be the case. There appears to be *little relationship at all between racial population*

change and ballot spoilage, and the one correlation that is found runs *counter* to the majority report's argument: An *increase* in the black share of the voting population is linked to a slight *decrease* in spoilage rates, although the difference is not statistically significant.

For a second analysis, Dr. Lott compiled data on voting in the 1992 and 1996 as well as 2000 presidential elections. In the set of regressions he provides in his Table 4, the "percent of voters in different race or ethnic categories is never statistically related to ballot spoilage." In the analysis supplied in his Table 5, which groups voters by age and sex and well as race, he found a very complex picture, with a positive link between the size of black population in five of ten age and sex categories, but just the opposite with the other five. To explain this strange pattern would require further research. Suffice it to say here that it is hard to imagine how discrimination could work against African American females in the 30-39 age bracket but in favor of black males of the same age.

Are the Precinct-level Estimates Any More Reliable? And What Do They Reveal?

The majority report includes some precinct-level data, providing estimates based on smaller units that are likely to be somewhat closer to the truth than estimates based on intercounty variations. Dr. Lichtman's precinct analysis is just as vulnerable to criticism as his county-level analysis. It employs the same methods, and again ignores relevant variables that provide a better explanation of the variation in ballot spoilage rates. In addition, Dr. Lichtman's own numbers show that county-level and precinct-level data yielded quite different results. Ballot rejection rates dropped significantly when the precinct numbers were examined, even though looking at heavily black precincts should have sharpened the difference between white and black voters, rather than diminishing it. Dr. Lichtman obscures this point by shifting from ratios to percentage point differences.

We have every reason to believe that if we had been able to reanalyze Dr. Lichtman's treatment of precinct-level data, we would have found it just as problematic as his work at the county level. He seems to have proceeded in exactly the same way, and to have ignored relevant variables, just as he did in his county-level analysis. And here too his account of what he did is too abbreviated for other investigators to check his results adequately.

The precinct-level analysis presented in the majority report, we have already noted, can yield mistaken and misleading results, because it also depends upon averages calculated for geographic units and yields findings tainted by the ecological fallacy. However, precincts are much smaller units than counties and are probably usually more homogeneous, so the results are likely to be somewhat closer to the truth than estimates based on intercounty variations. The report suggests that the precinct-level analyses Dr. Lichtman conducted for Duval, Miami-Dade, and Palm Beach counties simply confirm the estimates derived from county-level data. We read the results rather differently.

If the results of the precinct-level regression analysis in three counties are assumed to be accurate – and we repeat the caution that they too are open to serious question – we note that they show something quite interesting that the report ignores. They indicate that the *racial disparity in rates of ballot rejection was apparently much smaller* than it appeared from the county-level analysis.

As the table below indicates, using county-level data produces the estimate that black ballots were *nine times* as likely to be rejected as those cast by non-blacks. This estimate was given much play in the report and in press reports about it. But when you apply a more high-powered microscope to the election returns, and examine the evidence as reported by precinct, it turns out that this disparity was nowhere near nine to one. Instead, it ranged from 2.7 to 4.3. Thus it was from 52 percent to 70 percent *lower* than the statewide estimate about which so much was made in the report.

Estimated Racial Disparities in Ballot Rejection Rates: Percent Votes Rejected by Race and Ratio of Black to Non-Black Rejection

County-level estimates

	<u>Black</u>	<u>Non-Black</u>	<u>Ratio</u>
Florida	14.4	1.6	9.0

Precinct-level

Duval	23.6	5.5	4.3
Miami-Dade	9.8	3.2	3.1
Palm Beach	16.3	6.1	2.7

Extreme Case Precincts (90%+ black vs. 90%+ non-black precincts)

Duval	22.1	5.8	3.8
Miami-Dade	9.1	3.2	2.8
Palm Beach	16.1	6.2	2.6

[Derived from Tables 1-2 and 1-3 of Majority Report]

Further, the racial disparity ratios are narrower still in the precincts Dr. Lichtman examined as “extreme cases” – precincts that were 90 percent black (or 90 percent “non-black”). This data is noteworthy. First, extreme case analysis should get us closer to the truth because it gets us closer to measuring the variable of interest – in this case, race. If almost everyone in these select precincts is black, the problem of the ecological fallacy intrudes much less. *That the relationship of ballot spoilage with race weakens instead of growing stronger is telling.*

In addition, extreme case analysis tends to sharpen and exaggerate estimated group differences. Blacks who live in all-black or virtually all-black neighborhoods are likely to be poorer and less educated, for example, than African Americans in precincts that have a

broader racial mix, and are thereby more likely to spoil their ballots. And nonblacks who live in areas with few black neighbors may be above average in their income and educational levels, and less likely to make a mistake voting for that reason.

Remarkably, Dr. Lichtman managed to discuss the relationship between his county-level and his precinct-level findings at the June 8, 2001 meeting of the Commission without ever calling attention to these striking (and inconvenient) facts.

After mentioning the much publicized nine-to-one estimate that was so prominently featured in the report, he declared before turning to the precinct-level results that he didn't "like dealing with ratios because they don't tell you about people."²⁵ This is a very curious statement, Lichtman provided dozens of estimates of the alleged relationship between race and ballot rejection rates without having examined a shred of evidence about the experience of any individual person.

Instead of considering the *ratio* of estimated ballot spoilage for black and non-black voters, Dr. Lichtman chose to look at percentage point differences. The estimated difference for the state as a whole was 12.8 (14.4-1.6); for Duval it was 18.1; for Miami-Dade it was 6.6; for Palm Beach it was 10.2. Dr. Lichtman apparently averaged these when declared that the difference was "about 13 percent. It was a "double digit difference," he declared.²⁶ However, Miami-Dade's 6.6 percentage points is not a "double digit difference." More important, shifting the focus from *ratios* (9 to 1) to *percentage point differences* served to obscure a very important fact: If precinct-level analysis yields better estimates than county-level estimates, the *actual* racial disparity in rates of ballot spoilage in Florida as a whole was probably far below nine to one, and was likely on the order of three to one.

Whose Fault Was It? How Party Affiliations of Supervisors of Elections Affected the Rate of Ballot Spoilage

The majority report charges "disfranchisement" and lays the blame at the feet of state officials – particularly Governor Jeb Bush and Secretary of State Kathryn Harris. In fact, however, elections in Florida are the responsibility of 67 county supervisors of elections. And, interestingly, in all but one of the 25 counties with the highest spoilage rates, the election was supervised by a Democrat – the one exception being an official with no party affiliation.

Dr. Lott added another variable to the mix: the race of the election supervisor. His analysis reveals that having Democratic officials in charge increases the ballot spoilage rate substantially, but the effect is even stronger when that Democratic official is African American. Obviously no Democratic officials were out to disfranchise black voters, and the correlation points once again to the limitations of ecological regressions.

²⁵ Transcript of June 8, 2001 Meeting, 44.

²⁶ *Ibid.*, 44.

The majority report argues that much of the spoiled ballot problem was due to voting technology. But Democratic Party officials decided on the type of machinery used, including the optical scanning system in Gadsden County, the state's only majority-black county and the one with the highest spoilage rate.

A reader of the majority report would be led to think that many tens of thousands of Floridians tried to register their vote for president and failed to have it count because Governor Jeb Bush and Secretary of State Katherine Harris didn't want their votes to count and failed in their responsibility to ensure that they did. "State officials," the report declares, "failed to fulfill their duties in a manner that would prevent this disenfranchisement." Chair Berry, introducing the report at the June 8th meeting of the Commission, charged that the Governor and Secretary Harris had been "grossly derelict" in fulfilling their responsibilities.

But which officials were responsible for the conduct of elections in Florida's constitutionally decentralized system of government? Power and responsibility were lodged almost entirely in the hands of county officials, the most important of them the 67 county supervisors of elections. If anyone was intent on suppressing the black vote or to "disenfranchise" anyone else, it would have required the cooperation of these local officials.

Thus it seems natural to inquire about the political affiliations of Florida's supervisors of elections. If the U.S. Commission on Civil Rights seeks to show that the presidential election was stolen by Republicans, led by the governor and the secretary of state, it would be logical to expect that they had the greatest success in those counties in which the electoral machinery was in the hands of fellow Republicans. Conversely, it is very difficult to see any political motive that would lead Democratic local officials to try to keep the most faithful members of their party from the polls and to somehow spoil the ballots of those who did make it into the voting booth.

The report never asks this question, though it seems an interesting hypothesis to explore and the data are readily available. When we examined the connection between rates of ballot spoilage across counties and the political affiliation of the supervisor of elections, *we found precisely the opposite of what might be expected.* There was indeed a relationship between having a Republican running the county's election and the ballot spoilage rate. But it was a *negative* correlation of -.0467.

Having a Democratic supervisor of elections was also correlated with the spoilage rate – by 0.424. If we are to take ecological correlations seriously – and we do not – we could only conclude that Republican local officials were far more interested than Democrats in making sure that every vote counted.

Of the 25 Florida counties with the highest rate of vote spoilage, in how many was the election supervised by a Republican? The answer is *zero*. All but one of the 25 had

Democratic chief election officers, and the one exception was in the hands of an official with no party affiliation.

Dr. Lott provides a fuller examination of the possible impact of having a Democratic supervisor of elections in his Table 2, and adds another related variable – whether or not the supervisor was African American. Having Democratic officials in charge increases the ballot spoilage rate substantially, and the effect is stronger still when that official is African American. (All African American supervisors of elections are Democrats.) Lott estimates that a 1 percent increase in the black share of voters in counties with Democratic election officials increases the number of spoiled ballots by a striking 13 percent.

We do not cite this as evidence that Democratic officials sought, for some bizarre reason, to disenfranchise blacks, and that black Democratic officials are even more eager to do so. That is manifestly absurd. It is worth noting for two reasons. First, it nicely illustrates the limitations of ecological correlations. Would anyone want to draw the conclusion from this correlation that the solution was to elect more Republican supervisors of elections?

Second, it has important bearing on the question of *who is to blame* for the large numbers of spoiled ballots in minority areas. The majority report argues that much of the problem was due to voting technology – the use of punchcard machines or optical scanning methods that did not provide feedback to the voter produced a higher rate of ballot spoilage. But *who decided* that the voters of Gadsden County (the state's only black-majority county and the one with the highest rate of spoiled ballots) would use an optical scanning system in which votes were centrally recorded? *Who decided* that Palm Beach and Miami-Dade county voters would use punchcard machines? Certainly it was not Jeb Bush or Katherine Harris. Nor was it Lawton Chiles. It was Democratic local officials in those heavily Democratic counties who made those choices.

It is easy, of course, to say with hindsight that Florida should have had a uniform system of voting and a common technology for all elections. The Commission recommends that. But if Governor Bush and Republican legislators had proposed adopting such a system before the 2000 election, we can imagine the outcry from their political opponents, who would have seen such a move as an improper attempt by the governor to control election procedures. Indeed, it might well have been argued that such a decision would have had a disparate impact on minority voters, since centralizing the electoral system would have diminished the power of the Democratic local officials they had chosen to put in office. It could even have been argued that this transfer of power from officials who had the support of most minority voters would be a violation of the Voting Right Act, yet another attempt to deprive minorities of their opportunity to exercise political power!

Why Did the Report Ignore Florida's Hispanics and Other "Nonblack" Minorities?

Hispanics are a protected group under the Voting Rights Act. Moreover, the majority

report speaks repeatedly of the alleged disenfranchisement of "minorities" or "people of color." One section is titled "Votes in Communities of Color Less Likely to be Counted." And yet the crucial statistical analysis provided in Chapter 1 entirely ignores Florida's largest minority group – people of Hispanic origin. The analysis in the Commission's report thus excluded more Floridians of minority background than it included. The analysis conducted by Dr. Lichtman treats not only Hispanics but Asians and American Indians as well as if they were, in effect, white. He dichotomizes the Florida population into two groups, blacks and "nonblacks." In the revised report, Dr. Lichtman did add one graph dealing with Hispanics in the appendix, but this addition to his statistical analysis is clearly only an afterthought.

The majority report speaks repeatedly of the alleged "exclusion" and "disenfranchisement" of "minorities" or "people of color." One section is headed "Votes in Communities of Color Less Likely to be Counted."²⁷ But what information are we actually given about all those "communities of color"? We were amazed and disturbed to find that the crucial statistical analysis provided in Chapter 1 is narrowly focused on just *one* of the state's "communities of color" – African Americans. The discussion completely ignores *Florida's largest minority group* – people of Hispanic origin.

This is revealing of the Commission's constricted vision. The 2000 Census counted 2.3 million African Americans in Florida, approximately 15 percent of the total population. But the state had 2.7 million Latinos, almost 17 percent of its population.²⁸ Astonishingly, Hispanics hardly get a mention in the majority report. How many Cuban-Americans in Miami cast ballots that were "rejected"? An obviously important question that the authors of the report never asked. They include a few hasty references to correlations between the total minority population of the counties and the rate of ballot spoilage. But they provide no separate analysis at all of the state's largest minority group, or of any other minority group except African Americans.

Indeed, the analysis conducted by Dr. Lichtman treats not only Hispanics but Asians and Native Americans as well as if they were, in effect, part of the majority. He dichotomizes the Florida population into two groups, blacks and "nonblacks." The "nonblack" population includes, in addition to whites, the 2.7 million Hispanics, and almost half a million other residents who listed their race as Asian American or American Indian.²⁹

²⁷ Report, 141

²⁸ U.S. Census Bureau, *Profiles of General Population Characteristics, 2000 Census of Population and Housing: Florida*, May 2001, Table DP-1. We state that the black population was approximately 15 percent of the total because its exact size depends upon the definition you use. Some 14.6 percent of Floridians reported that their sole race was black. If you add in people who considered themselves both black and something else, the figure increases to 15.5 percent, still substantially smaller than the Hispanic population.

²⁹ Ibid. In addition to the 2.7 million Hispanics and the 450,000 Asians or American Indians, another 697,000 Floridians reported that they were of "other race," meaning other than white, black, American Indian, Asian, or Pacific Islander. Most of these "other race" respondents were, in all likelihood, Latinos, and thus cannot be fairly added to the total excluded from attention because it would entail double counting. All Hispanics were excluded, however they answered the race question.

A federal agency devoted to the protection of minority rights and to the inclusion of all thus seems to have an extraordinarily narrow and exclusive conception of who belongs in the minority population. In this report, the Commission majority in fact has *excluded more Floridians of minority background – quite a lot more – than it has included*. Whenever the report speaks broadly about “minorities,” it must be remembered that the supporting statistical analysis it provides ignores *all* minorities but blacks, and indeed merges most Floridians of minority background into the “nonblack” category along with the white majority.

An examination of the role of race in election procedures in the Florida 2000 election that completely ignores the voting experience of Hispanics, Asian American and Native Americans cannot be considered a valid investigation. From the perspective of the majority report, anyone who is not African American is just an undifferentiated part of the vast “nonblack” population, which comprises 85 percent of the total.

In presenting his findings at the June 8, 2001, meeting of the Commission, Dr. Lichtman remarked that after he concluded his report he had made an effort to examine the Hispanic vote. He did this the night before the meeting.

We have just received the revised majority report, and a revision of Dr. Lichtman's report to the commission. The statistical analysis in the majority report still ignores Hispanics completely and retains its simplistic dichotomy between black and “nonblack” Floridians. It includes in an appendix one new graph produced by Dr. Lichtman (Appendix II-F), but makes no comment on it. Dr. Lichtman's revised report includes only one new paragraph on the subject. In sum, any attention given to Florida's Latinos was only as an afterthought.

Part II: Anecdotal Evidence Fails to Prove Widespread Discrimination

Based on witnesses' limited (and often, uncorroborated) accounts, the Commission insists that there were "countless allegations" involving "countless numbers" of Floridians who were denied the right to vote. This anecdotal evidence is drawn from the testimony of 26 "fact witnesses," residing in only eight of the state's 67 counties.

In fact, however, many of those who appeared before the Commission testified to the absence of "systemic disenfranchisement" in Florida. Thus, a representative of the League of Women Voters testified that there had been many administrative problems, but stated: "We don't have any evidence of race-based problems...we actually I guess don't have any evidence of partisan problems." And a witness from Miami-Dade County, who said she attributed the problems she encountered not to race but rather to inefficient poll workers: "I think [there are] a lot of people that are on jobs that really don't fit them or they are not fit to be in."

Without question, some voters did encounter difficulties at the polls, but the evidence fails to support the claim of systematic disfranchisement. Most of the complaints the Commission heard in direct testimony involved individuals who arrived at the polls on election day only to find that their names were not on the rolls of registered voters. The majority of these cases point to bureaucratic errors, inefficiencies within the system, and/or error or confusion on the part of the voters themselves.

When this report was presented to the Commission on June 8, Chair Berry stated that "we don't need evidence" to prove the charges of disfranchisement and discrimination. And in fact, the report itself presents as anecdotal evidence the testimony of a handful of individuals. The report concludes, based only on these selected accounts, that not only were many Floridians denied the right to vote, but that these denials fell most squarely on persons of color.

These claims are not supported by the testimony the Commission received in Florida. The Commission heard from a total of 26 fact witnesses, representing only 8 of Florida's 67 counties. During the post-hearing review, local election officials provided information which discredited significant portions of that testimony, but those corrections and clarifications are not reflected in the final report.

Nonetheless, based on witnesses' limited (and mostly, uncorroborated) accounts, the Commission majority insists that there were "countless" allegations involving "countless numbers" of Floridians who were denied the right to vote. Without verifiable and quantifiable evidence to support its predetermined conclusion concerning charges of disfranchisement, the majority is forced to rely on vague assertions that, "[i]t is impossible to determine the total number of voters who were unable to vote on election day." The report's conclusions, insisting that our very democracy is threatened, are based not on solid evidence supported by verifiable facts, but rather upon a thin tissue of assertions that are contravened by direct testimony from other witnesses.

There is no question that some voters did encounter difficulties at the polls, but the evidence does not support the conclusion that there was a systematic attempt to deprive voters, particularly minorities, of their right to vote.

Most of the complaints the Commission heard in direct testimony at the two hearings involved individuals who arrived at the polls on election day only to find that their names were not on the rolls of registered voters. The majority of these cases point to bureaucratic errors (a lack of proper assistance from misinformed or understaffed poll workers); inefficiencies within the system (insufficient phone lines to verify registration status); and/or error or confusion on the part of the voters themselves. Some voters did not know the location of their precinct before going to vote. Some did not bring proper identification to the polling station. Others were confused or uncertain about their right to request and receive assistance or to ask for another ballot if they believed they had made a mistake.

According to the testimony of a majority of the witnesses at the hearings, there was no “systematic disenfranchisement or widespread discrimination” in Florida. Although the following excerpts are either buried in the text of the report or omitted altogether, they are representative of the testimony the Commission heard throughout the three days of hearings:

- Florida’s Attorney General testified that of the 2,600 complaints he received on the election, 2,300 were related to the confusing butterfly ballot, and only three complaints concerned alleged discrimination on the basis of race.
- An expert on voting rights and election law, Professor Darryl Paulson, testified that the problems in Florida were due to “a system failure without systemic discrimination.” He also testified: “Across the United States, there were 2.5 million votes that were not counted. And whenever you have an election system that requires 105 million people to vote essentially in a span of 12 hours, you have created a system guaranteed to have voting problems.”
- Professor Paulson later testified: “If the intent of state officials was to discriminate against African-Americans, I would argue it was a dismal failure. There was a record number of African-Americans who participated in Florida’s election – a 65-percent increase in turnout from the 1996 presidential election. The 1990s have also seen a tremendous explosion in the number of black elected officials throughout the state. We now have a record number of African-Americans in the state legislature [and on] city councils, school boards, [and] county commissions. Florida now has a competitive two-party structure that... in many ways makes it extremely difficult for a systematic type of discrimination to occur.”

- A representative of the League of Women Voters testified that there had been many administrative problems, but stated: "We don't have any evidence of race-based problems, well actually I guess don't have any evidence of partisan problems."
- Florida's Commissioner of Agriculture, a designee to the Elections Canvassing Commission, testified regarding the relationship of voting problems to race and ethnicity: "I don't think it's a party issue or a racial issue. I think it's a breakdown in the system."
- A witness from Miami-Dade County, who said she attributed the problems she encountered not to race but rather to inefficient poll workers, stated: "I think [there are] a lot of people that are on jobs that really don't fit them or they are not fit to be in."
- Another witness from Miami-Dade, who claimed she could not vote because poll workers were unable to find her name on the voter list: "In light of everything that's come out it's kind of hard for me to say whether or not it was discriminatory or whether or not it was just an inadvertent mistake."
- A witness from Broward County who claimed she was not allowed to vote by affidavit because her name was not on the list of registered voters: "I don't think it was a racial situation. [The poll workers] were mostly white and they were still trying to help me. [The system] was just not equipped to handle the job that we had over there a lot of people were misinformed and were not being helped. [I]t was like a big chaotic place over there. It was not about a racial thing."

Part III: No Attempt to Distinguish between Disfranchisement and Problems Caused by Bureaucratic Inefficiencies and Voter Error

Other witnesses did offer testimony suggesting numerous problems on election day. But the Commission, in discussing these problems, failed to distinguish between mere inconvenience, difficulties caused by bureaucratic inefficiencies, and incidents of potential discrimination. In its report, the complaint from the voter whose shoes were muddied on the path to his polling place is accorded the same degree of seriousness as the case of the seeing-impaired voter who required help in reading the ballot, or the African American voter who claimed she was turned away from the polls at closing time while a white man was not.

There were certainly jammed phone lines, some moved polling places, and other problems, but none added up to widespread discrimination. Many of the difficulties, like those associated with the "butterfly ballot," were the product of good intentions gone awry or the presence of many first-time voters. The most compelling testimony came from disabled voters who faced a range of problems, including insufficient parking and inadequate provision for wheelchair access.

Other than the "quantitative evidence" of its statistical analysis, the report claims that, "the only evidence that exists is the testimony of those who have stated publicly that they were denied the right to vote and the credibility of their testimony." However, while the first-hand accounts of witnesses were helpful in describing election-day problems, they did not point to what the majority report calls a "disturbing trend of disenfranchisement."

The majority of those witnesses who experienced problems and who came before the Commission testified that they were ultimately able to cast their vote, despite the problems they described; a few were not. A chief flaw in the majority report, however, is that it generally fails to distinguish between problems of mere inconvenience, difficulties caused by bureaucratic inefficiencies, and incidents of potential discrimination. In this way, the complaint from the white male voter whose shoes were muddied on the path to his polling place is accorded the same degree of seriousness as the case of the seeing-impaired voter who required – but was denied – assistance in reading the ballot, or the African American voter who claimed she was turned away from the polls at closing time while a white man was not.

For the most part, those who testified before the Commission told of problems in voting, not of being prevented from voting. The most frequent problems mentioned included the following:

1. Inability of some poll workers to confirm eligibility status

The report argues that in the last election, "many people arrived at their polling places expecting to cast their ballots for the candidates of their choice, but many left frustrated after being denied this right." To support this charge, the report points to "consistent,

uncontroverted testimony regarding the persistent and pervasive inability of election poll workers to verify voter eligibility during the November 7 presidential election.”

It is true that the Commission heard several complaints about jammed phone lines that, in many cases, prevented poll workers from getting through to headquarters to confirm the eligibility of voters whose names did not appear on the rolls. Some voters found that their names had been left off the voting lists because of bureaucratic error and through no fault of their own. In other cases, however, many voters failed to verify the location of their assigned precinct or polling place before going to vote on election day. Others failed to notify their elections board of a change in address. Some neglected to bring the necessary proof of eligibility to vote, and still others did not correctly fill out their mail-in applications through “motor voter” registration. The high turnout of voters, many of them first-time voters, only exacerbated the difficulties that arose on election day.

Neither voters nor poll workers testified that the problems they experienced amounted to widespread disfranchisement in Florida. In fact, according to researchers at the *Miami Herald*, some poll workers who struggled with insufficient phone lines admitted that they erred on the side of including, rather than excluding voters. In other words, when they were unable to get through to headquarters, they found it easier to go ahead and let people vote, rather than challenge their credentials.

What we learned in Florida was that all of these factors can contribute to an overloaded communications system on election day, and that there is no substitute for greater voter awareness and better trained elections staff to handle inquiries.

2. *Polling places closed early or moved without notice*

The Commission received no evidence that this was more than an insignificant problem. There is absolutely no evidence upon which to conclude, or even suggest, that there was a pattern of closings or movement designed to disenfranchise voters. One county supervisor testified that in some cases there are urgent reasons for moving a polling facility – i.e., there was one facility that had burned down on the Saturday before election day – but that the public is notified of the change. The Palm Beach County supervisor testified that, “Nobody has come to me to give me specifics on which precinct they were turned away from so that I could do the investigation to see what exactly happened.”

The Commission did hear testimony from one poll worker about a gated community where the gates had shut automatically at 6:15 p.m. and had to be reopened by police officers. The Palm Beach supervisor asserted that this incident was “never reported” to her but that it did not seem likely given that the facility in question was located at a water works facility that would have had a government staff person there to open the gates. As the supervisor explained, “I’ve heard many people tell me things and then I asked them whether they themselves experienced it and they said, no, they heard it from somebody else. And I wonder if this person [the witness about the gated community] actually experienced that themselves.”

In a letter to the General Counsel during the affected agency review, David Leahy, the Supervisor of Elections for Miami-Dade refutes the testimony of several witnesses, including one (Felix Boyle) who insisted that his voting place had been changed without prior notice. After investigating this matter, Mr. Leahy affirms in his letter that: "Felix Boyle stated that the polling place for Precinct #36 was in a different building than was used in the 2000 primary election. The same building was used for both elections." Ignoring this rebuttal altogether, the report continues to include Mr. Boyle's testimony as an example of "polling places moved without notice."

If the Commission had been truly interested in the important issue of uniform polling-place hours, it might have made more than a single, passing mention of one of the more widely-publicized problems that emerged during the last election: the announcement by all five television networks at 7:00 p.m. Eastern time that the polls in Florida had closed, when the polls in the Panhandle counties were still open for another hour. There is no way of knowing exactly how many voters were discouraged from going to the polls because of this misinformation, but testimony before Congress from a number of poll workers and inspectors indicates that the network poll-closing announcement did have a sizeable impact on voter turnout in the panhandle. The majority's willingness to overlook such issues is consistent with its objective of reaching a predetermined conclusion. Any evidence that might tend to support a different conclusion or support the legitimacy of the election outcome is to be excluded or given only the most perfunctory treatment.

3. *Accessibility issues*

Some of the most compelling and direct testimony in Florida were those accounts regarding the problems of accessibility for disabled voters. Although the disabled voters who testified before the Commission claimed that they themselves ultimately voted, they described a range of problems facing the disabled on election day, including insufficient parking, inadequate provision for wheelchair access, and other difficulties involving ballots and voting technology. The barriers they described appear to constitute a long-standing problem that was not just confined to Florida or to this presidential election. It is unfortunate that the report does not examine the ongoing efforts of Florida state officials Governor Bush's ADA working group and a task force working under the Secretary of State to address these concerns.

In the same chapter on "accessibility issues," the report addresses allegations that an "overwhelming number" of Haitian-American voters, "many Latino voters," and "many persons who were not literate" were "denied adequate assistance" in casting their ballots. Here, the discussion of accessibility problems is much less clear. Much of the testimony from advocacy groups was speculative and based on second-hand, anecdotal information.

For instance, the Commission heard from a representative of a Haitian-American advocacy organization in Miami-Dade that, in addition to the problems of long lines and understaffed polling facilities, there were problems regarding a lack of bilingual ballots.

However, few details were presented to help gauge the extent of this problem, and no attempt was made to properly investigate the seriousness of these alleged problems.

When the Miami-Dade County supervisor was questioned about the allegations of the earlier witness, he referred to a county commission ordinance that requires the supervisor to determine which precincts have a significant Haitian American voter population and to provide bilingual ballots in those precincts. He testified that, for purposes of the November 2000 election, he determined there were 60 precincts with a significant Creole population. In addition to providing bilingual ballots, Miami-Dade also did sample ballots in English and Creole and publicized those in Haitian-American newspapers. The Miami Dade supervisor maintained that the earlier witness might be in a precinct that did not have a significant Haitian American population. The report makes no attempt to clear up this confusion.

4. *"Motor Voter" Problems*

The report asserts that "[m]any Floridians alleged that they registered to vote through the Department of Motor Vehicles (DMV) and learned later that they were not registered. Many of these disappointed citizens filed complaints with the attorney general's office and/or the Democratic Party." The allegation here appears to be that Republicans in Florida somehow engineered a "motor voter" conspiracy, even though there is no evidence to support that claim. The report itself points out that, according to the testimony of the director of the Division of Driver Licenses, problems often arose because voters failed to complete their motor/voter applications correctly and/or in a timely manner. References to one such individual were stricken from the report when the affected agency's responses determined that this individual had submitted an incomplete registration form. The report does not explore the concerns of "motor voter" critics that, instead of excluding voters, the "motor voter" system frequently tends to err on the side of letting voters vote when in fact they may not be eligible.

5. *Confusing Ballots*

Although some witnesses testified about the confusion caused by the "butterfly ballot" in Palm Beach County, no evidence was presented that the butterfly ballot was targeted to particular groups, as the Commission originally suggested in its "preliminary" report of March 9. During the hearings, the Commission heard varying accounts regarding "defective" ballots. A rabbi from Palm Beach County testified that when he spoke with a group of 500 people within his congregation in Palm Beach County, about 20 percent complained that they had problems with the butterfly ballot ("their arrows did not line up with the holes"); the rest of the group experienced no such problems and "simply laughed."

The supervisor of elections for Palm Beach County supervisor later testified that, in some cases, it appeared that voters using the butterfly ballot failed to properly line up the ballot in the voting machine. The supervisor also explained that certain community groups may

have mistakenly instructed voters to “punch the second hole” for Gore “when he was not the second hole; he was the third hole.” Others had been told to “vote for Lieberman,” but “[i]f they followed the line where Lieberman’s name was, it punched another hole down because the President and Vice President are grouped together.”

The supervisor also testified that, “In Palm Beach, sample ballots were sent out to all registered voters,” and she contested earlier charges regarding defective ballots. She explained that she herself had never been alerted to or received any complaints about the actual card not fitting into the machine: “The ballot cards are all purchased from the same company and they’re all printed at the same time. They all come off the same press. They’re all printed on the exact same size paper. You’ve got the candidate’s name, the arrow pointing to the number and then the hole if you follow straight across then you’ll hit the hole.”

Appearing before the Senate Rules Committee on March 14, Dr. Stephen Knack, testified that many of the problems affecting the largest numbers of voters in Florida were the product of good intentions gone awry and were not inherently related to questions of technology. In Palm Beach County, the major problem was a ballot designed to be printed in large type for the benefit of older voters. In Duval County, a major problem was faulty instructions to voters by party workers, which were provided with the intention of reducing roll-off in contests farther down on the ballot. The biggest problem for all kinds of ballots was the fact that, as the report explains, there were ten candidates on the ballot for President, compared with only three or four in previous years.

Another significant issue, which the report virtually ignores, concerns the problems that occurred as a result of the high turnout of first-time voters, many of whom received faulty how-to instructions from the very groups that urged them to vote in the first place. As Isiah Rumlin, head of the NAACP in Duval County, recently stated: “We didn’t do any voter education. We didn’t know we needed to. In retrospect, we should have done a better job.”

As a result of the election-day confusion in Florida and many other states, there is a new emphasis on voter education initiatives and the role that can be played by advocacy groups and community organizations. In Broward County, for example, the supervisor of elections, Miriam Oliphant, has launched a program to involve local churches in the efforts to better educate voters, recruit new ones, and prevent many of the difficulties that occurred during the 2000 election. By stressing litigation rather than education, the majority report is heading in the wrong direction.

Part IV: The Majority Report's Warped Interpretation of the Voting Rights Act

The report comes close to concluding that election procedures in Florida were in violation of the Voting Rights Act, but the Commission cannot reach such a conclusion and has bent the 1965 statute totally out of shape.

The question of a Section 2 violation can only be settled in a federal court. Plaintiffs who charge discrimination must prevail in a trial in which the state has a full opportunity to challenge the evidence. To prevail, plaintiffs must show that "racial politics dominate the electoral process," as the 1982 Senate Judiciary Committee Report stated in explaining the newly amended Section 2.

The majority's report implies that Section 2 aimed to correct all possible inequalities in the electoral process. Had that been the goal, racially disparate registration and turnout rates—found nearly everywhere in the country—would constitute a Voting Rights Act violation. Less affluent, less educated citizens tend to register and vote at lower rates, and, for the same reasons, are likely to make more errors in casting ballots, especially if they are first time voters. Neither the failure to register nor the failure to cast a ballot properly—as regrettable as they are—are Section 2 violations.

Thus, despite the thousands of voting rights cases on the books, the majority report cannot cite any case law that suggests punch card ballots, for instance, are potentially discriminatory. Or that higher error rates among black voters suggest disfranchisement.

There is good reason why claims brought under section 2 must be settled in a federal court. The provision requires the adjudication of competing claims about equal electoral opportunity—an inquiry into the complex issue of racial fairness. The Commission is not a court and cannot arrive at verdicts that belong exclusively to the judiciary. Yet, while the majority report does admit that the Commission cannot determine if violations of the Voting Rights Act have actually occurred, in fact it unequivocally claims to have found "disenfranchisement," under the terms of the statute.

The majority report argues that election procedures in Florida violated the Voting Rights Act, but that conclusion depends upon bending the 1965 statute totally out of shape.

In 1982, as the report correctly states, Section 2 of the Voting Rights Act was amended to allow minority voters to challenge any method of election on the ground of discriminatory "result." In this amended provision, a method of election is said to have a discriminatory impact when minority voters have been found to have "less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice."

The majority on the Commission does not (and cannot) find Florida in violation of the Voting Rights Act; by law, only a court could draw such a conclusion. But it strongly implies that it has proven just that, claiming that the Act was violated by the use of older,

less reliable voting machinery in the poorer districts; by the disproportionately high number of spoiled ballots in counties with substantial minority populations; and by the use of the state's "purge list" of felons who are ineligible to vote.

The "Less Reliable Voting Machinery" Issue

The less-reliable machinery argument – which gained mythic proportions in the press – has been widely disproven. It is simply not the case that poorer counties with larger minority populations have substantially inferior voting equipment that is significantly more prone to error. At worst this is a minor factor in voter error rates.

In fact, as the Commission heard in Florida, the punch-card jurisdictions did not have the highest "spoilage" rates. The "optical central" system had the most problems – that is, the system using optical scanners with votes counted at some central location rather than in the local precinct. (Thus, the county with the highest spoilage rate, Gadsden County, used the optical central tabulation system, not the infamous punch-card machines.) And the "touchscreen" system has been found to have a spoilage rate as high as punch-card systems.

The Commission heard a number of complaints about punch card voting machines, but these were used in many different locations throughout the state, in both poor and affluent districts, from Duvall County to Palm Beach. Testimony from expert witnesses on voting technology did seem to point to a correlation between minority populations and "drop off" rates ("drop off" being the difference between the numbers of people who went to the polls and the numbers of ballots that recorded no vote for certain offices), but not a clear or consistent correlation between technology and minority populations.

A January 2001 study by Professor Stephen Knack of the University of Maryland and Professor Martha Kropf of the University of Missouri (Kansas City), like other recent, authoritative studies, also challenges the "widespread perception that counties in Florida and elsewhere with a greater percentage of minorities and poor people were more likely to employ antiquated voting machinery that produces a disproportionate number of undervotes and invalid ballots." The Knack & Kropf study found "little support for the view that resource constraints cause poorer counties with large minority populations to retain antiquated or inferior voting equipment. In most states, it is whites, the non-poor and Republican voters who are more likely to reside in punch card counties rather than African Americans, the poor and Democratic voters."

There is, however, a larger problem with this whole analysis. Even if the spoilage rate data were accurate, the Commission's allegations of Voting Rights Act violations would be close to indefensible.

Section 2 of the Voting Rights Act of 1965

The question of a Section 2 violation can only be settled in a federal court. Plaintiffs who charge discrimination must prevail in a trial in which the state has a full opportunity to challenge the evidence. To prevail, plaintiffs must show that “racial politics dominate the electoral process,” as the 1982 Senate Judiciary Committee Report stated in explaining the newly amended Section 2. The point of the Voting Rights Act was always to provide remedies for voters who were “isolated within a political system... ‘shut out,’ i.e. denied access... [without] the opportunity to participate in the electoral process,” as a distinguished civil rights attorney who helped draft the amendment stated at the 1982 hearings.

Under Section 2, plaintiffs need not find a smoking gun – clear evidence of discriminatory intent. Nevertheless, the Judiciary Committee’s list of “factors” to which courts were to refer in judging the merits of a Section 2 suit were clearly intended to help judges identify those situations in which either a history of discrimination or ongoing racism had left black and Hispanic voters at a distinctive disadvantage in the electoral process. Racism is still the issue in a “results” test. And yet the Commission’s majority report failed to produce a shred of evidence suggesting an electoral process infected with racial animus.

The majority’s report implies that Section 2 aimed to correct all possible inequalities in the electoral process. Had that been the goal, racially disparate registration and turnout rates – found nearly everywhere in the country – would constitute a Voting Rights Act violation. Less affluent, less educated citizens tend to register and vote at lower rates and, for the same reasons, are likely to make more errors in casting ballots, especially if they are first time voters. Neither the failure to register nor the failure to cast a ballot properly – as regrettable as they are – constitute Section 2 violations.

Voters have the right to equal access to the voting booth, and to have their ballots treated equally once they are cast, but the responsibility for deciding to register, to go to the polls, and to cast a valid ballot remains with the voter in America. Some countries compel their citizens to vote, which would be the only way of creating uniformly representative turnout rates; America, thankfully, does not.

Thus, despite the thousands of voting rights cases on the books, the majority report cannot cite any case law that suggests punch card ballots, for instance, are potentially discriminatory. Or that higher error rates among black voters suggest disfranchisement.

In fact, many of Florida’s African American voters in the 2000 election were first-time voters, so it is not implausible to assume that many of them may have been unfamiliar with voting procedures, and consequently were more likely to commit errors in voting that would have “spoiled” their ballots. Such errors would not be the result of discrimination; they would simply be errors. The true test of discrimination is whether voters of equal ability – equally literate, and equally experienced with voting procedures

and equipment – but of different races were equally able to exercise their right to vote.

The Commission's report offers no evidence that middle class, educated black voters made ballot errors at a rate higher than their white neighbors. And if a disproportionately high number of voting errors among low-income and poorly educated blacks constitutes "disfranchisement" – a violation of voting rights – then most jurisdictions in the nation with a minority population would have long ago found themselves in court fighting charges of discrimination.

That is not what the framers of Section 2 envisioned. The concern, the Senate Judiciary Committee informed members of Congress in 1982, was solely with those settings in which "racial politics play[ed] an excessive role," dominating the electoral process.

There is a reason why, in contrast to Section 5 in the Act, Section 2 requires a trial in a federal court. Section 5 claims can be settled in the Justice Department itself, through the process of administrative review. That is because they pose simpler questions – namely, whether a new election procedure or practice is clearly intentionally discriminatory, or whether its impact is such as to leave minority voters worse off than they had been. A typical Section 5 question would thus be: Are newly drawn redistricting lines likely to result in fewer black officeholders than before?

Section 2, on the other hand, demands an inquiry into the complex issue of racial fairness. Adjudicating competing claims about equal electoral opportunity, as the Supreme Court has noted, requires an "intensely local appraisal" – the specific, detailed knowledge that only a court can obtain. And it demands the chance that only a trial can provide for the challenged jurisdiction to answer the charges. As the Chair herself has conceded many times the Commission is: "not a court" and cannot arrive at verdicts that belong exclusively to the judiciary. Yet, while the majority report does admit that the Commission cannot determine whether violations of the Voting Rights Act have actually occurred, in fact it unequivocally claims to have found "disenfranchisement," under the terms of the statute.

The Commission's findings are likely to inspire some people to call for federally-mandated election procedures of one sort or another. This would be a grievous error. The architects of the Constitution left matters of suffrage almost entirely in state hands, although subsequent Amendments prohibited a poll tax and denial or abridgment of the right to vote on account of race, gender, or age (after eighteen). It is true that in 1965 the Voting Rights Act broke with constitutional tradition, but that was a uniquely draconian response necessitated by the persistent and egregious infringements of basic Fifteenth Amendment rights that pervaded the Jim Crow South.

None of the Commission's findings depict a national emergency in any way resembling that in 1965. Florida itself (unlike the states of the Deep South in the 1960s) has readily acknowledged the need for reforms to its voting procedures, and has already acted to remedy problems evident in the November election. State action is appropriate; federal

intrusion is not.

Part V: The Unfair and Politicized Attack against Florida's Public Officials

The report holds Florida's public officials, including the governor and secretary of state responsible for the discrimination that it alleges. "State officials failed to fulfill their duties in a manner that would prevent this disenfranchisement," it asserts. In fact, most of the authority over elections in Florida resides with officials in the state's 67 counties, and many of those with the highest rates of voter error were under Democratic control.

The report charges that the governor, the secretary of state and other state officials should have acted differently in anticipation of the high turnout of voters. What the Commission actually heard from "key officials" and experts was that the increase in registration, on average, was no different than in previous years; that since the development of "motor voter" registration, voter registration is more of an ongoing process and does not reach the intensity it used to just prior to an election; and that, in any event, registration is not always a reliable predictor for turnout.

There was a 65 percent increase in African American voters, 40 percent of whom were coming to the polls for the first time. But this was an unanticipated event.

The majority report also faults Florida state officials with having failed to provide the 67 supervisors of elections with "adequate guidance or funding" for voter education and training of election officials. But the county supervisors are independent, constitutional officers who make their budget requests to the Boards of county commissioners.

The majority report makes no attempt to conceal its politicized attack against Florida state officials. The report asserts that "State officials failed to fulfill their duties in a manner that would prevent this disenfranchisement," and calls on the U.S. Department of Justice to "institute formal investigations... to determine liability and to seek appropriate remedies."

The charges the majority has directed against the Governor and the Secretary of State and other officials in Florida are particularly disturbing. The Commission's interrogation in Tallahassee (during which the Governor was *the only witness* during the entire set of hearings to be denied the opportunity to make an opening statement) suggested a Catch-22: The governor and other state officials would have been faulted if they had been too involved in the running of the presidential election; now they are judged to be derelict for their deference to proper local authorities.

The majority report admits that it found no "conclusive evidence" of a state-sponsored conspiracy to keep minorities from voting. But as several independent observers have pointed out, this is malicious and misleading phrasing, since there was in fact *no evidence whatsoever* of a conspiracy at all, conclusive or otherwise.

Contrary to what the majority has asserted, state and local officials have clearly and forcefully refuted the serious allegations the Commission has made against them.

The testimony in Florida clearly explained and delineated the delegation of authority and decentralized responsibility for elections, under Florida's constitution. Testimony from all the public witnesses with jurisdiction over these matters provided no evidence of criminal misconduct in connection with the Florida 2000 elections. Testimony also revealed the seriousness accorded to the work of the Governor's bipartisan task force on election reform. Ignoring all of this available evidence the Commission insists that Florida state officials are guilty of "gross neglect" in fulfilling their responsibilities regarding election matters. By so doing, the majority again violates fundamental concepts of due process. Not only are its conclusions not based upon evidence contained in the record of the hearings, they are in direct conflict with the testimony of the witnesses who were most knowledgeable about such matters.

The report refuses to accept a key point that emerged in testimony during the hearings – that the elections supervisors are "independent, constitutional officers." That is why, as a recent piece in *The Economist* ("Unfair, Again," June 9, 2001) points out, "laying so much blame on the governor and secretary of state is unrealistic." The article goes on to explain that, "Most of the key decisions were made in Florida's 67 counties rather than in Tallahassee," and, "Many of the counties with the highest number of voter errors were under Democratic control."

The majority report criticizes Governor Bush for having "apparently delegated the responsibility" for the conduct of the election, even though that is precisely what Florida law provides. The Secretary of State is criticized for having taken a "limited" role in election oversight that is in sharp contrast to the position she took before the Supreme Court in *Bush v. Gore*. The majority report fails to explain, however, that *Bush v. Gore* (which addressed the issue of "recounts" and the certification of the results of the election) had nothing to do with the authority of county officials as to how the elections are run on the local level in Florida. The report glosses over the inconvenient fact that, under Florida law, Governor Bush has virtually no authority over the voting process, and the Secretary of State's role is mainly to provide non-binding advice to local officials.

The report's central theme – that the governor and other officials are to be blamed (and investigated) for not having taken full responsibility for all of the problems that occurred during the Florida election – is contravened by the arbitrary way in which these same officials were treated by the Commission's own general counsel.

On June 8, when questioned as to why state officials were given only portions of the report to review, the general counsel explained that, "we selected the portions that are relevant... based on activities and responsibilities." The general counsel went on to say that, "we just thought it would be a bad idea [to send the full report] because there are responsibilities and activities that don't pertain to the governor's office...." In light of the fact that the general counsel sent the governor only about 30 pages of a 200-page report, he himself must have considered the governor's activities and responsibilities to be quite limited indeed.

It is also ironic that the Chair chose to berate Secretary Harris during the Tallahassee hearing for not having assumed more responsibility for the problems that occurred on election day. At the hearing, the Chair explained that, even though this Commission delegates to the staff director the authority to run the day-to-day operations of the Commission, she herself – as Chair – must assume ultimate responsibility for *everything* that happens at the Commission. That explanation stands in stark contrast to the statements issued by the Chair in the wake of the unauthorized leak of this report, when the Chair asserted that she was “only one vote” on the Commission.

The report charges that the governor, the secretary of state and other state officials should have acted differently in anticipation of the high turnout of voters. What the Commission actually heard from “key officials” and experts was that the increase in registration, on average, was no different than in previous years; that since the development of “motor voter” registration, voter registration is more of an ongoing process and does not reach the intensity it used to just prior to an election; and that, in any event, registration is not always a reliable predictor for turnout.

One expert who has studied voter turnout and participation for 25 years testified that, “The Florida turnout was not particularly high” – only 2.2 percent over 1996. Several supervisors of elections testified that the highest turnout occurred in 1992 (which had an 80 percent turnout compared to the 64 percent turnout in 2000).

Other experts pointed to the 65 percent increase in African American voters and the fact that 40 percent of the African American voters who turned out were first-time voters, but characterized these as “unanticipated events.” The Palm Beach County supervisor stated, “I don’t think I was aware of how much larger the African American community’s turnout was until really at the end of the election evening when we looked at the precincts as [the results] came in.”

The majority report also faults Florida state officials with having failed to provide the 67 supervisors of elections with “adequate guidance or funding” for voter education and training of election officials. It fails to mention the Commission also learned that, under Florida’s Constitution, requesting and allocating resources is a local responsibility, one which belongs to the supervisors of elections. The county supervisors are independent, constitutional officers who make their budget requests to the Boards of county commissioners. It is up to the county commissioners to approve or reject those requests, and there is currently no process for appealing to the Florida cabinet. The majority of the supervisors of elections who came before the Commission testified that they themselves did not request additional resources prior to the election but, that even if they had, such a request would have properly been directed to their county commissioners, not to the governor or to the Division of Elections.

Part VI: One-Sided Examination of the Felon List

The report asserts that the use of a convicted felons list "has a disparate impact on African Americans. African Americans in Florida were more likely to find their names on the list than persons of other races." Undoubtedly that is true; a higher proportion of blacks have been convicted of felonies. But there is no evidence that the state targeted blacks in a discriminatory manner in constructing a purge list, or that the state made less of an effort to notify listed African Americans and to correct errors than it did with whites. The Commission did not hear from a single witness who was actually prevented from voting as a result of being erroneously identified as a felon. Furthermore, whites are twice as likely as blacks to be placed on the felon list erroneously, not the other way around.

The compilation of the purge list was part of an anti-fraud measure enacted by the Florida legislature in the wake of a Miami mayoral election in which ineligible voters cast ballots. The list was overinclusive, and some supervisors made no use of it. (The majority report did not bother to ask how many counties relied upon it.) On the other hand, according to the Palm Beach Post, more than 6,500 who were in fact ineligible would not have been found without the list.

Based on extensive research, the Miami Herald concluded that the biggest problem with the felon list was not that it wrongly prevented eligible voters from casting ballots, but that it ended up allowing ineligible voters to cast a ballot. The Commission should have looked into allegations of voter fraud, not only with respect to ineligible felons, but involving the country in a variety of jurisdictions, serious questions about voter fraud have been raised.

The Majority Report suggests that one important instrument of black "disfranchisement" was the so-called purge list, a list of persons who should be removed from the voting rolls because they had a felony conviction. Regrettably, the list supplied to state officials by the firm hired to do the work mistakenly included the names of some persons who had no felony convictions.

The Majority Report implies that this was no innocent mistake, but another effort to suppress the black vote. The sole piece of supporting evidence it cites a table with data on Miami-Dade County. Blacks were racially targeted, according to the report, because they account for almost two thirds of the names of the felon list but were less than one-seventh of Florida's population.

This might seem a striking disparity. But it ignores the sad fact that African Americans are greatly over-represented in the population of persons committing felonies--in Florida and in the United States as a whole. The Majority Report never bothers to ask what the proportion is. Without demonstrating that less than two-thirds, of the previously convicted felons living in Florida were African Americans--the ratio disproportion on the felon list is completely meaningless.

It is not only meaningless but irrelevant. The vast majority of the people on the felons' list were properly listed. It was illegal for them to vote according to Florida law. The Commission may not like that law, but it is not its business to opine on the matter.

The only possible civil rights violation here is the allegation that disproportionately large numbers of African Americans were put on the felon list falsely. Had the Commission bother to examine its own data supplied in the report, it would have found that the truth was just the opposite of what it claims.

The table reveals that 239 for the 4,678 African Americans on the Miami-Dade felons' list objected when they were notified, and they were cleared to vote. They represented 5.1 percent of the total. Of the 1,264 whites on the list, 125 proved to be there mistakenly-- which is 9.9 percent of the total. Thus, the error rate for whites was almost double that for blacks. If the errors on the felons list were targeted so as to reduce the voting strength of some group it was whites, not blacks, who were targeted. The error rate for Hispanics was almost as high as that for whites---8.7 percent. Since the data are from Miami-Dade, with its huge Cuban-American population, one might conclude that someone hoped to suppress both the both the non-Hispanic white vote and the Cuban-American vote.

At the hearing in Miami, the Commission received testimony from DBT/Choicepoint, Inc., the data-base company which provided the state with a over-inclusive list of individuals who might be convicted felons, registered in more than one county or even deceased. The compilation of the list was part of an anti-fraud measure enacted by the Florida legislature in the wake of Miami's 1997 mayoral election, in which at least one dead voter and a number of felons cast ballots.

The Commission heard from DBT that approximately 3,000 to 4,000 non-felons (out of approximately 174,000 names) were mistakenly listed on this so-called "purge" list provided to the state. The list identified 74,900 potentially dead voters, 57,770 potential felons, and 40,472 potential duplicate registrations. Under Florida law, the supervisors of elections were required to verify the ineligible-voter list by contacting the supposedly ineligible voters. Some supervisors who were concerned about the unreliability of the list did not use it to remove a single voter, but the majority report made no effort to determine how many of the 67 supervisors of elections did or did use the list. According to recent studies, the total number of wrongly-purged felons was 1,104, including 996 convicted of crimes in other states and 108 who were not felons. This number contradicts the Commission's claim that "countless" voters were wrongly disenfranchised because of inaccuracies in the list.

Most notably, the Commission did not hear from a single witness who was prevented from voting as a result of being erroneously identified as a felon. One witness did testify that he was erroneously removed from the voter list because he had been mistaken for another individual on the felon list whose name and birth date were practically identical

to his. However, he was able to convince precinct officials that there had been a clerical error, and he was allowed to vote.

In pursuing its attack on the purge list, the Commission completely ignored the bigger story: Approximately 5,600 felons voted illegally in Florida on November 7, approximately 68 percent of whom were registered Democrats. On June 8, General Counsel Hailes was asked why the report failed to address the issue of ineligible voters who cast ballots on election day. His response was: "That's not part of the scope of our report."

Based on extensive research, the *Miami Herald* discovered that, "[a]mong the felons who cast presidential ballots, there were "62 robbers, 56 drug dealers, 45 killers, 16 rapists, and 7 kidnappers. At least two who voted were pictured on the state's on-line registry of sexual offenders." According to the *Herald*, the biggest problem with the felon list was not that it wrongly prevented eligible voters from voting, but rather that it ended up allowing ineligible voters to cast a ballot:

Some... claim that many legitimate voters "of all ethnic and racial groups, but particularly blacks" were illegally swept from the rolls through the state's efforts to ban felons from voting. There is no evidence of that. Instead, the evidence points to just the opposite, that election officials were mostly permissive, not obstructionist, when unregistered voters presented themselves. (Miami Herald Report, p. 105)

The *Palm Beach Post* conducted its own extensive research into the problems with the flawed exceptions list. The Post's findings, which corroborate the major conclusions of the Herald's investigation, include the following:

- Controversy aside, most of the people the state prevented from voting probably were felons.
- Of the 19,398 voters removed from the rolls, more than 14,600 matched a felon by name, birth date, race and gender.
- More than 6,500 were convicted in counties other than where they voted, suggesting they would not have been found by local officials without the DBT list.
- Many of these felons were convicted years ago, and they had no idea that they did not have their civil rights [to vote].
- Many had been voting and unwittingly breaking the law for years.

(Palm Beach Post, "Felon Purge Sacrificed Innocent Voters," May 27, 2001)

The report's message is that nobody in authority did enough in terms of data verification. But the Commission itself has failed to verify key arguments it makes in this report. The letter (submitted per the affected agency review) from Michael R. Ramage, General Counsel for the Florida Department of Law Enforcement, provides a lengthy clarification of the FDLE's role in verifying the felon status of voters whose names had been forwarded by the local supervisor. (Note that, according to Mr. Ramage's letter to Mr. Hailes, the FDLE was allowed to review *only three pages* of the 200-page report, despite the prominence the report gives to this controversial issue.) In his letter to General Counsel Hailes, dated June 6, 2001, Mr. Ramage maintains that the Commission's findings are "wrong and based on erroneous assumptions," and places undue emphasis on "anecdotal examples of problems." His letter later goes on to detail FDLE's efforts regarding verification of the "exceptions" list:

[I]t is important to note that during the pertinent time frame, FDLE responded effectively to nearly 5,000 voters whose names matched those of convicted felon's in Florida's criminal history records. (It is not unusual for criminals when arrested to use a name, date of birth, address, social security number, etc., other than their own.).... A number of those who believed they had been wrongfully identified as not being able to vote were ultimately found to be incorrect. They were, in fact, not eligible to vote. Likewise, a number of those who raised a concern were ultimately found to be eligible to vote. The process worked to resolve issues. *Of those voters who contacted FDLE to appeal the notice from a local supervisor of elections that they were ineligible to vote*, approximately 50 percent were confirmed to be Florida convicted felons, and 50 percent were determined not to have a conviction in Florida for a felony.

While the General Counsel on June 8 indicated that some revisions would be made to acknowledge the "extraordinary efforts" by the FDLE, no revision has been made in the conclusions, which are still wrong and based on erroneous assumptions. Certainly, no eligible voter should be wrongly prevented from doing so, but at the same time, election officials have a compelling interest in preventing voter fraud by convicted felons. The Commission majority has failed to look at all the facts regarding the felon list and, instead of focusing on what it calls "the reality" of list maintenance, uses anecdotes to call for an extensive and unwarranted investigation by the U.S. Department of Justice.

There is also the additional question of voter fraud. On June 8, the Chair explained that the report did not look at the issue of voter fraud, since "fraud does not appear to be a major factor in the Florida election," and that, in any event, this was "beyond the scope" of the Commission's investigation. Thus, the report single-mindedly pursues only one kind of vote dilution (allegations that eligible voters were denied the right to vote) while completely ignoring the other (allegations that ineligible voters were allowed to vote).

Only in the report's introduction is there a brief mention of Complaints of Voter Fraud, "listed along with the Western Florida Time Zone Controversy and Absentee Military Ballots as "other factors" that "could have contributed to voter disenfranchisement in Florida." (In other words, the main concern is with voting irregularities that could be interpreted as having a disparate impact on Democratic voters. Factors that one could surmise might have had a disparate impact on Republican voters are simply shoved aside.) The report then goes on to explain that, "[w]hile recognizing that the above factors do raise concerns of voting irregularities, the Commission did not receive many complaints or evidence during its Tallahassee and Miami hearings pertaining to how these issues created possible voter disenfranchisement in Florida."

This explanation is disingenuous and incorrect. First of all, at the Commission's meeting of December 8, 2000, when the Commission reached its decision to conduct an investigation of the Florida election, there was lengthy discussion of the Commission's statutory responsibility to investigate "any patterns or practice of fraud." Chair Berry herself explained that "if there are people who engaged in fraud or violated the laws, we would hand them over for prosecution." The Chair assured Commissioners that, "[e]very single allegation should be systematically pursued."

Second, if the Commission "did not receive" evidence regarding fraud, it is because, contrary to the Chair's assurances in December, it chose not to seek any testimony on the widely-publicized allegations of fraud. Given the report's emphasis on the so-called purge list, this is an egregious omission.

Following the November elections, specific allegations of voter fraud surfaced in a number of cities and states. For example:

- A grand jury in St. Louis has been investigating 3,000 suspect voter registration cards, including some for dead local officials and even a pet.
- In Philadelphia, the number of the city's registered voters almost equals the number of eligible voters who live in the city according to census estimates.
- Allegations of vote fraud in Milwaukee prompted an investigation into reports that out-of-state volunteers from one political party supplied packages of cigarettes to homeless people in exchange for their votes.
- The names of more than 15,000 dead people were found on Georgia's active voting rolls.
- In Indiana, as many as one in five voter registrations were found to be bogus.

In Florida, there were various reports regarding thousands of ballots cast by ineligible

felons and unregistered voters, fraudulent absentee ballots in nursing homes, and precincts where more ballots were cast than the number of people who voted. It is unconscionable that the Commission has made no serious effort to look at these problems.

Part VII: Unwarranted Criticism of Florida Law Enforcement

Despite clear and direct testimony during the hearings, as well as additional information submitted by Florida officials after the hearings, the majority report continues to charge the Florida Highway Patrol with behavior that was “perceived” by a number of voters as unusual (and thus somehow “intimidating”) on election day. This is a serious charge.

In fact, only two persons are identified in the majority report regarding their perception of activities of the Florida Highway Patrol on election day. One testified about a police checkpoint, and the other testified that he found it “unusual” to see an empty police car parked outside of a polling facility. Neither of these witnesses’ testimony indicates how their or others’ ability to vote was impaired by these events.

As the chief of the Florida Highway Patrol, Colonel Charles C. Hall, testified in Tallahassee, there was one motor vehicle checkpoint, in Leon County, on election day. That checkpoint was not adequately authorized and resulted in one complaint. The equipment checkpoint operation lasted about 90 minutes (between 10:00 a.m. and 11:30 a.m.) and occurred more than two miles away and on a different roadway from the nearest polling facility. Of the approximately 150 cars stopped at the checkpoint, a total of 18 citations or notices of faulty equipment were issued to 16 different individuals, 12 of whom were white. The citizen who lodged the complaint testified that she had contacted the NAACP after she returned from voting, yet refused to meet with the FHP to assist their investigation. Despite this one, highly publicized incident, there has been no evidence whatsoever of police intimidation of voters.

Writing in response to the affected agency review, the general counsel for the State of Florida’s Department of Highway Safety and Motor Vehicles, Enoch J. Whitney, stands by the evidence presented by Colonel Hall at the hearing:

Colonel Hall’s testimony conclusively demonstrates that there was no intent by members of the Florida Highway Patrol to delay or prohibit any citizen from voting on Election Day. All pertinent evidence shows that in fact no one was delayed or prohibited from voting by virtue of the equipment checkpoint operation.

The Commission majority’s willingness to perpetuate a gross misperception of this issue is a disservice to the public’s confidence in America’s electoral and law enforcement systems, and an insult to the dedicated officers of Florida’s law enforcement community.

Part VIII: Procedural Irregularities on the U.S Commission on Civil Rights

Procedural irregularities have seriously marred the majority report. In writing the report, the Commission ignored not only the rules of evidence, but the agency's own procedures for gathering evidence. By arguing that "every voice must be heard," while in fact stifling the voice of the political minority on the Commission itself, it is guilty of gross hypocrisy.

In writing this report, the Commission majority has ignored not only the rules of evidence, but the agency's own procedures for gathering evidence. The procedural issues are important to the extent they relate to the policy and politics driving this report. By pretending to investigate procedural irregularities while engaging in procedural irregularities of its own, the Commission majority undermines its credibility and diminishes the value of its work. By arguing that "every voice must be heard" while in fact stifling the voice of others, the Commission is guilty of gross hypocrisy. The majority report claims the election was marked by "injustice, ineptitude and inefficiency," yet it has tarred itself with its own feather in this report.

Republican and Independent Commissioners were never asked if they would like to call witnesses. Hearings were completely controlled by the Chair and the General Counsel, and Commissioners did not even know who the witnesses were to be at one Miami hearing; thus they could not properly prepare questions.

When the hearings failed to provide any evidence of widespread voter disfranchisement, the Chair unilaterally approved a last-minute procurement of the services of an outside "statistician," Professor Allan Lichtman. Commissioners were never asked to approve this contract, nor were they contacted regarding any suggestions they might have for additional or alternate experts. Over the objections of the two dissenting Commissioners, the Chair now also proposes that Dr. Lichtman be tasked with producing an analysis of their dissent. No outside expert has ever before been asked to produce such an analysis, let alone have that analysis attached to the final report.

1. Failure to follow statutory requirements for fair and objective proceedings.

Under the Commission's regulations, all proceedings are to be conducted in a fair and objective manner. During its hearings in Florida, however, the Commission failed to ensure fair, equal and courteous treatment of witnesses. The secretary of state was treated in an insulting manner, and the governor was the only witness during the proceedings who was denied the opportunity to deliver an opening statement.

2. Conclusions issued before all of the evidence was received.

The Commission reached its verdict long before it had even completed its review of the evidence. On March 9, the Chair introduced a "preliminary assessment" that was not shared with Commissioners beforehand and that did not provide Florida officials with an

opportunity to respond to the charges against them. These procedures are sadly reminiscent of Alison in Wonderland's court of the Red Queen: "Verdict first, trial later!"

3. *Denial of "defame and degrade" review.*

Section 702.18 of the Code of Federal Regulations requires the Commission to give parties that might be defamed or degraded by its reports a chance to respond. The majority report states that "the Commission followed its procedures by conducting a defame and degrade review." It fails to state that the Commission's general counsel denied the governor's request to be given the requisite 30 days, under defame and degrade, to review the report in its entirety (instead of select portions) and the requisite 20 days to submit a "timely, verified response." The general counsel's explanation on June 8 was that there was "no statement [in the report] that would constitute defame and degrade." In light of the Chair's statement on June 8 that the governor, the secretary of state, and other state officials were "grossly derelict in fulfilling their responsibilities," the general counsel's decision appears to indicate that the Commission has been "grossly derelict" in its treatment of those who assist its investigations.

4. *Inadequate affected agency review and consideration of affected agency comments*

The report also claims that "[a]ffected agencies were afforded an opportunity to review applicable portions." The Commission's project management system normally requires at least 30 days for affected agency review, yet the governor and other officials were given only 10 days to review the report, and the report was given to the press before affected parties could respond. In an interview with the *New York Times*, the general counsel claimed that anyone wishing to respond to the Florida report would have 20 days to do so. Few of the affected agency comments have actually been factored into the final report.

To compound the seriousness of these procedural improprieties, the Commission handed out copies of the draft report at the June 8 meeting and posted the draft on its web site, thereby widely disseminating a version of the report that included none of the affected agency comments or any of the corrections and amendments discussed at the June 8 meeting.

Affected agency review is an essential procedure to ensure fairness and accuracy of Commission reports. Contrary to the Chair's statement on June 8, it is not a mere "courtesy" that is granted or denied at the whim of the Chair or the staff. In this case, the procedure was mooted by the leak to the press and the public dissemination of a preliminary, uncorrected draft.

5. *No management controls for this agency in disarray.*

A 1997 investigation by the GAO found the Commission to be an "agency in disarray" and cited, in particular, the lack of communication and effective management controls

regarding the Commission's projects. Pursuant to the GAO investigation, the Commission implemented its management information system to specify timelines for completion of the Commission's work product. In the case of the Florida report, however, no clear or consistent timeline has been maintained for this project and Commissioners' inquiries to both the Chair and the staff director have been routinely ignored.

For example, at the March 9 meeting, instead of taking up a status report on the project (as the agenda announced), Commissioners were asked to approve, without any advance notice at all, the Chair's own personal statement of preliminary findings. At the same meeting, the Chair advised Commissioners that, "in April we expect to have the draft of the voting rights in Florida, the actual draft, in front of us." In April, however, Commissioners were given only an "Outline of the Final Document" and were advised that the draft report would be considered at the June 8 meeting. At no time were Commissioners advised they would be given only three days to read the report prior to the June 8 vote. The Chair dismissed any criticism in this regard, asserting that Commissioners should have known "that we would receive it when we did receive it."

Instead of taking responsibility for the question of agency leaks, the Chair now proposes to legitimize the premature disclosure of Commission reports, by suggesting a change in policy for Commission reports. Specifically, the Chair proposes, for future reports, "that we release the draft of the report publicly as soon as it's available without waiting [until] even when we give it to the Commissioners." Such a procedure would be totally unacceptable and an unconscionable breach of the Commission's statutory obligations.

6. *Selection of Allan Lichtman as the Commission's Sole Statistical Analyst for the Florida Report*

This claim is based entirely on a statistical analysis conducted for the commission by Professor Allan Lichtman of American University. In the pages below, we will show that a rigorous statistical analysis of the available data clearly and convincingly contradicts Dr. Lichtman's alleged findings. Dr. Lichtman's conclusions are so unsupportable, however, that it is first worth pausing to discuss the Commission's selection of him as its sole statistical analyst to carry out such crucial work.

The choice of Dr. Lichtman to carry out this work is problematic and revealing of the Commission majority's biases. When he appeared at the June 8, 2001, meeting of the commission to present his findings, he took pains to present himself as a scholar above party, who had "worked for Democratic interests... and for Republican interests."³⁰ Unfortunately, he failed to mention a highly pertinent fact that appears on the American University website – that he worked as a "consultant to Vice-President Albert Gore, Jr."³¹

Furthermore, although Dr. Lichtman claimed (at the June 8 Commission meeting) that he

³⁰ Transcript of United States Commission on Civil Rights meeting, Washington, D.C., June 8, 2001, 46.

³¹ <<http://www.american.edu/cas/faculty.shtml#HISTORY>. WMA>

began his study of possible racial bias in the Florida election with an open – indeed, even “skeptical” – mind, in fact, evidence suggests the contrary. As early as January 11, at the very beginning of his investigation and prior to conducting any detailed statistical analysis of his own, Dr. Lichtman stated publicly that he was already convinced, on the basis of what he had read in the *New York Times*, that in Florida “minorities perhaps can go to the polls unimpeded, but their votes are less likely to count because of the disparate technology than are the votes of whites.” He concluded: “In my view, that is a classic violation of the Voting Rights Act.”³² Long before he examined any of the statistics, Dr. Lichtman had already concluded that Florida had disfranchised minority voters and violated the Voting Rights Act.

A social scientist with strong partisan leanings might conceivably still conduct an even-handed, impartial analysis of a body of data. Unfortunately, that is not the case in the present instance.

³² Transcript of U.S. Commission on Civil Rights hearing, Tallahassee, Florida, January 11, 2001, PAGE TK

Conclusion

America's journey on the road to racial and ethnic equality is far from over. We have traveled far, and still have far to go. But the Commission's majority report positively sets us back. By crying "disfranchisement" where there was confusion, bureaucratic mistakes, and voter error, the report encourages public indifference. Real civil rights problems stir the moral conscience of Americans; inflated rhetoric depicting crimes for which there is no evidence undermines public confidence in civil rights advocates and the causes to which they devote themselves.

The U.S. Commission on Civil Rights was once the moral conscience of the nation. Under the direction of the Chair, Mary Frances Berry, it has become an agency dedicated to furthering a partisan agenda. After six months of desperately searching for widespread disfranchisement in Florida, the Commission produced a 200-page report based on faulty analysis and echoing vague and unsubstantiated claims.

The shoddy quality of the work, its stolen-election message, and its picture of black citizens as helpless victims in the American political process is neither in the public interest nor in the interest of black and other minority citizens. Do we really want black Americans to believe there is no reason to get to the polls; elections are always stolen; they remain disfranchised? There is important work the Commission can do. But not if its scholarly and procedural standards are as low as those in this Florida report.

Non-Voted Ballots and Discrimination in Florida

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Introduction

The Majority Report by the U.S. Commission on Civil Rights presents two types of empirical evidence that African-Americans were denied the right to vote in Florida during the 2000 general election. The report examines the impact of race on spoiled (or non-voted) ballot rates as well as the impact of race on the exclusion from voter eligibility lists because of past felony criminal records. The empirical work regarding non-voted ballots relies solely on cross county regressions or correlations using data from 2000 alone. The evidence that African-Americans are erroneously placed on the ineligible list at higher rates than other racial groups is based upon a simple comparison of means.

Our examination of the data here demonstrates three things:

- 1) Using the Majority Report's method and data for determining whether there is "a direct correlation between race and having one's vote discounted as a spoiled ballot" is quite sensitive to the specification used. Even if one excludes the variables that are necessary to obtain the result that they want, the conclusion is shown to be quite ambiguous as African-Americans are even more likely to have their votes discounted as a spoiled ballot when the county election supervisor is a Democrat or is an African-American. Using their method, it is simply not possible to distinguish whether the higher spoilage rate among African-Americans is a result of them being African-American, being in counties with Democratic Election supervisors, or being in counties with African-American Election supervisors.
- 2) The Majority Report fails to account for which counties had high rates of non-voted ballots in the past. We find that once these past rates are accounted for, additional increases in the percent of voters in a county who are African-American are not related to changes in the rate that ballots are not voted. While the difference is not statistically significant, the ballot non-voting rate is slightly more positively related to the share of white voters than African-American voters.
- 3) The Majority Report's own evidence that African-Americans are erroneously included on the ineligible list at higher rates than other racial groups actually shows the opposite of what they think that it does. The evidence that African-Americans win a greater share of successful appeals does not account for the fact that African-Americans make up an even much greater share of the list of ineligible voters to begin with. In fact, the rate that whites are removed from the list because they were incorrectly included to begin with is almost twice the rate of African-Americans.

Re-examining the Simple Correlations

Ideally any analysis of non-voted ballots and race would directly link whether individuals in a particular group actually had non-voted ballots. Lacking that direct link, the Majority Report attempts to see whether counties or precincts with a higher percentage of African-Americans have a higher percentage of non-voted ballots. The Majority Report interprets evidence linking a higher percentage of African-Americans with a higher percentage of non-voted ballots as showing that whatever is causing ballots to be non-voted affects some fixed percentage of African-Americans who go to the polls.

The Majority Report provides many scatter plots to illustrate this correlation across precincts and counties. The problem is that all the evidence provided by the Majority Report is based on purely cross-sectional evidence. Yet, purely cross-sectional evidence suffers from well-known weaknesses in not being able to account for other factors that may explain the relationship between race and non-voted ballots.

The simplest way to account for these other factors is to examine whether certain counties had high levels of non-voted ballots even before they had high levels of African-Americans. Thus, we examine counties over time and compare the change in the racial composition of voters with the change in non-voted ballots. If African-Americans disproportionately account for non-voted ballots, the percent of African-Americans and non-voted ballots should continue to hold across elections: counties with the largest increase in the percentage of voters who are African-American should also have the largest percentage increase in non-voted ballots.

To examine this, we compared the change in county ballot spoilage rates and racial composition in the Presidential election in the 1996 and 2000 and the change in the share of voters in those elections who were in different races. The results are shown in Figures 1 through 4. Generally it is difficult to see much of any relationship. If indeed there is one, it turns out to be the opposite of what is implied by the Majority Report: there is a very small negative correlation between increases in the percent of voters who are African-American and spoilage rates (a correlation of -4 percent). And an increase in the share of white voters is associated with an increase in the non-voted ballot rate, though none of these very simple relationships are statistically significant.¹

Analyzing the Purely Cross-Sectional Level Data

Appendix 1 of the Commission's Majority Report lists the factors that they presumably tried to account for in their analysis of non-voted ballots. Besides the percent of registered voters who are African-American, they include information on the percent of the general population who are white, African-American, Hispanic, and minority; median income; the poverty rate; the type of voting system (optical, punchcard, paper/hand, lever machine); and whether voting was tabulated at the precinct, centrally, or otherwise. While these factors are listed, there is surprisingly little discussion on why these factors rather than other variables are included. Despite repeated requests by commission member Abigail Thernstrom, no information has been provided on how exactly these different variables were included in their regression estimates.²

Why some of these factors are important is easy to explain. For example, measures of income and poverty are roughly associated with education and therefore with the ability to read and follow voting instructions. Errors in voting will also vary with the type of voting equipment and possibly where the votes are tabulated. For example, if optical readers are used and the votes are fed into a vote counter directly by the voter, it is possible for a ballot with an error to be immediately returned to and corrected by the voter.

Other factors mentioned by the Commission in its appendix are more difficult to explain. For example, why include a detailed breakdown of the share of different groups in the general population but only examine the share of voters who are African-American? There is also the issue of what has been left out. Given the Majority Report's emphasis on "intentional discrimination" (e.g., p. 37), why not try to account for those involved in the

¹ The correlation between the change in non-voted ballots and the share of voters who are white is .09; the same correlation for Hispanics is .03; and the correlation for "other" (neither white nor African American) is -.17.

² Two measures of education (the percentage of high school graduates and a measure of literacy) are briefly mentioned in the text of Professor Lichtman's draft report to the commission, but the data is not provided in the data appendix and the results are never reported in his own draft.

process who might have some reason for either discriminating against African-American voters or preventing such discrimination? Some obvious controls for this are the political party affiliation or race of the county election supervisor. If the suspected discrimination is occurring against African-Americans and given that African-Americans vote so heavily for Democrats, it seems doubtful that Democratic or African-American election supervisors would act in ways to increase the rate of non-voted ballots of African-Americans.

Because of these two sets of concerns we gathered data on the share of voters who are white or Hispanic and on the political affiliation and race of county election supervisors from the Florida Secretary of State's Office and individual county supervisors of elections. Section A in Table 1 contains descriptive statistics on the county data for the year 2000 obtained directly from the Majority Report's Appendix 1. Section B in Table 1 provides information on the new variables that we obtained.

Since neither the Majority Report nor the accompanying "Draft Report" by Allan Lichtman show exactly what regressions specification they examined, we tried different specifications to replicate the commission's results. However, it was difficult to find a consistent relationship between the share of voters who are African-American and the ballot spoilage rate. We started out by using all the variables reported in their Appendix 1 (see column 1 in Table 2). While the coefficient on the percent of voters who are African-American was indeed positive, implying that a greater share of voters being African-American (and not just characteristics correlated with the presence of African-Americans in the community) increased the spoilage rate, the coefficient was quite statistically insignificant. The probability that the coefficient was positive was only 50.3 percent. (By contrast, the likelihood that you will get a "heads" from a coin flip is 50 percent.) Thus using the Commission's very own set of control variables, there is thus no real confidence that there is a positive relationship between the share of African-American voters and the ballot spoilage rate.

Because the cross-sectional data might not be sufficient to disentangle the share of African-Americans in the general population from the measure of the share of voters who are African-American, column 2 in Table 2 removes the variable for the share of African-Americans in the county population. Interestingly, this specification implies that a higher share of voters being African-American actually reduces the ballot spoilage rate. Indeed, it is quite damning that any specification that accounted for something as simple as the share of the county population that is white resulted in no significant relationship between the share of voters who are African-American and the ballot spoilage rate. The specification in column 3 removes the percentage of the population that is white and is one of only two specifications shown in Table 2 that provide statistically significant evidence consistent with the Majority Report's claims.

Even in the specification (column 3) which implies a significant impact of the share of voters who are African-American, the variable explains very little of the overall variation in spoilage rates. Removing the share of voters who are African-American reduces the amount of variation in ballot spoilage that can be explained by the regression from 73.4 percent to 69.1 percent, a 4.3 percent reduction. By contrast, removing the variables that account for the method of voting and where the counting takes place explains 30 percent of the variation. In none of other the specifications shown in Table 2 does removing any or all of the variables that contain the share of voters who are African-American reduce the amount of the variation in non-voted ballots that can be explained by any more than 3 percent. In the first specification that uses all of the variables provided by the Majority Report, the share

of voters who are African-American explains less than a third of one percent of the variation.³

Once we found a specification that was consistent with the Majority Report's claims, we examined whether the relationship between African-American and ballot spoilage rates might really be proxying for other left-out factors. The next four specifications (columns 4 through 7) point to one clear conclusion: there exist many other factors that occur in heavily African-American counties and any of these factors could generate a high non-voted ballot rate.

For example, the strongest relationship we find between the share of voters who are African-American and ballot spoilage rates exists when African-Americans are county election supervisors (column 6) and a very strong effect also occurs when Democrats are county election supervisors (column 5). The estimates imply that each one percent increased share of voters by African-Americans produces 13 percent more non-voted ballots when the county election supervisor is African-American than when they are of some other race.

The data does not allow us to distinguish which is the primary reason for the higher spoilage rate when African-American voters are relatively more prevalent, but the most statistically significant effect still appears to be whether African-Americans are voting in a county where the election supervisor is African-American. If county level voting is rigged (intentionally or not) to discriminate against African-Americans voters, the empirical method used by the Majority Report implies that by far the most discriminatory counties are ones where Democrats and African-Americans control the balloting process. Unless we believe that Democrats and African-American officials are discriminating either intentionally or not against African-American voters, the obvious conclusion is that this approach for ferreting out discrimination is flawed.

The other control variables imply that combining optical voting machines with centrally counting votes produces significantly more non-voted ballots, whereas optical votes counted at the precinct reduces spoilage. Higher poverty rates are also associated with more spoilage.

Professor Lichtman's draft report, upon which the Majority bases its conclusions, makes the claim (p. 6) that: "is there some other factor which better explains this disparity in ballot rejection rates? In short the answer is no." If much weight is to be attached to his findings, this is indeed an important question. Yet, this section has shown that accounting for just the data supplied in the Majority Report's appendix can reverse Lichtman's claim. In addition, this section has raised possible variables that help explain the variation in ballot spoilage rates that were never discussed in either the Majority Report or Lichtman's draft report.

There is a long list of other factors that might explain spoilage rates, such as voter age or gender, and these were never included in the simple regressions. It is also important to study not only the means but the distributions of different variables. Part of our reason for not going much beyond what was done in the Majority Report was to keep our results as similar to theirs as possible, though it was very easy to include variables that would eliminate any statistical significance with respect to the share of voters who were African-American. The results in the following section examine these issues in more detail because of the larger sample that allows us to more fairly make this type of detailed breakdown.

³ The claim in Professor Lichtman's draft report that 25 percent of the variation can be explained simply by the share of voters who are black is very misleading. It is obtained only because no other variables are included in that regression. This only makes sense if he really believes that this is the only variable that should be included in explaining the variation in ballot spoilage rates.

Analyzing the County Level Data for the 1992, 1996, and 2000 Presidential Elections

As noted earlier, purely cross-sectional data faces severe limitations in accounting for differences across counties. There are many reasons for why spoilage rates differ and accounting for the thirteen variables used in our analysis (or the smaller number available in the Majority Report) leaves out many possible factors that are necessary to explain the difference in ballot spoilage rates in different counties. Using information on non-voted ballot rates during previous presidential elections allows us to examine whether changes in the racial composition of voters can explain changes in these rates. None of our results imply increasing the share of voters in any racial or ethnic group significantly increases non-voted ballot rates.

While the Florida Secretary of State's Office has detailed records on current county level voting operations, past information was not readily available so we were not able to account for the method of voting, where the votes are tabulated, and the race of the county election supervisor. In any case, the past non-voted ballot rates serves as a proxy for these types of variables in explaining the current non-voted ballot rate.

In the first set of regressions in this section, we use only the percent of the voters by race and do not use the demographic breakdown of the general population. In place of the median income and poverty rate, we use data that we had readily available on per capita income, per capita unemployment insurance payments, and per capita income maintenance payments (welfare).⁴ These last three variables were only available up through 1998, so we use those values as proxies for the year 2000.⁵

The percent of voters in different race or ethnic categories are never statistically related to ballot spoilage, and even the coefficient signs imply that a greater percentage of African-Americans is not consistently associated with more non-votes. When the percent of white voters is not controlled for, a higher percentage of African-Americans actually implies fewer non-voted ballots. In three of the four specifications less than .13 percent of the variation in non-voted ballots is explained by including African-American voters.

As for the other variables, non-partisan county election supervisors are associated with more non-voted ballots and higher income with fewer non-voted ballots. The average non-voted ballot rate declined significantly from 1992 to 1996 and then rose very slightly in 2000. The other variables do not produce consistent results.

Table 5 replaces the voting share data in the first column of Table 4 with census demographic data to measure the differential impact that age, sex, and race might have on non-voted ballots.⁶ This breakdown was not readily available in terms of those who voted in the elections, so we use the census data as a substitute. One reason for relying on this census data is that if the percent African-American in the general population had been used in place of African-Americans as a share of voters the previous regressions, we obtain results that are roughly similar in size and statistical significance.

⁴ The data on these income and payment values were obtained from the Regional Economic Information System (REIS). Income maintenance includes Supplemental Security Insurance (SSI), Aid to Families with Dependent Children (AFDC), and food stamps.

⁵ Lichtman uses a similar approach.

⁶ This data was obtained from the U.S. Bureau of the Census.

The results in Table 5 paint a much more complicated story on the relationship between race and non-voted ballots than is discussed by the Majority Report. For five age and sex categories, an increase in the share of voters who are African-American implies more non-voted ballots. Yet, for the other five age and sex categories, the reverse is true. It is not clear what form of discrimination would imply that more African-American males between 20 and 29 increases non-voted ballots, but the reverse is true for African-American females in that age range.

The Evidence on Excluding Convicted Felons

The evidence on convicted felons proves the opposite of what the Majority Report claims. In their conclusion on page 37, the Majority Report states that "the chance of being placed on this list [the exclusion list] in error is greater if the voter is African-American." The evidence they provide indicates that African-Americans had a greater share of successful appeals. However, since African-Americans also constituted an even greater share of the list to begin with, whites were actually the most likely to be erroneously on the list (a 9.9 percent error rate for whites [125/1264] versus only a 5.1 percent error rate for blacks [239/4678]). The rate for Hispanics (8.7 percent [105/1208]) is also higher than for blacks. Their own table thus proves the opposite of what they claim that it shows. A greater percentage of Whites and Hispanics who were placed on the disqualifying list were originally placed there in error.

In any case, this evidence has nothing to do with whether people were in the end improperly prevented from voting, and there is no evidence presented on that point. The Majority Report's evidence only examines those who successfully appealed and says nothing about how many people of those who didn't appeal could have successfully done so.

Figure 1: African Americans and Non-Voted Ballot Rate

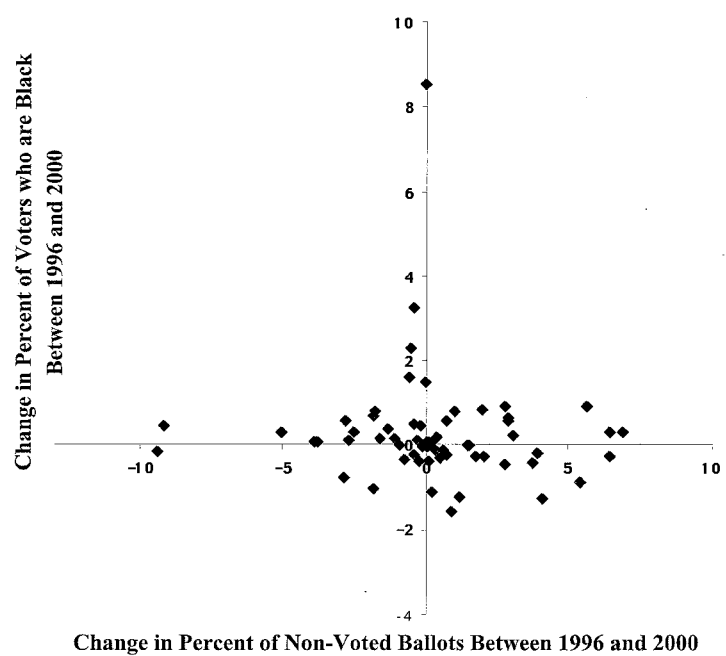


Figure 2: Whites and Non-Voted Ballot Rate

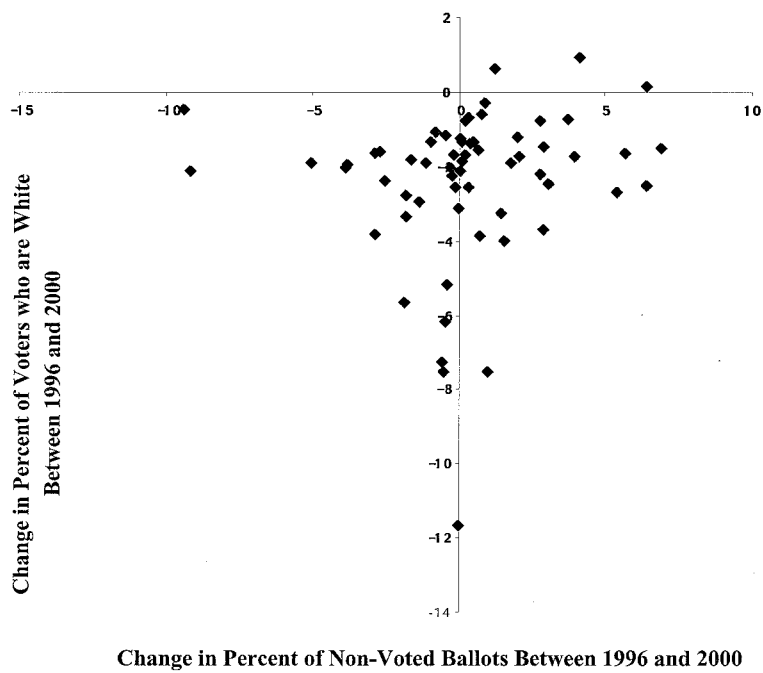


Figure 3: Hispanics and Non-Voted Ballot Rate

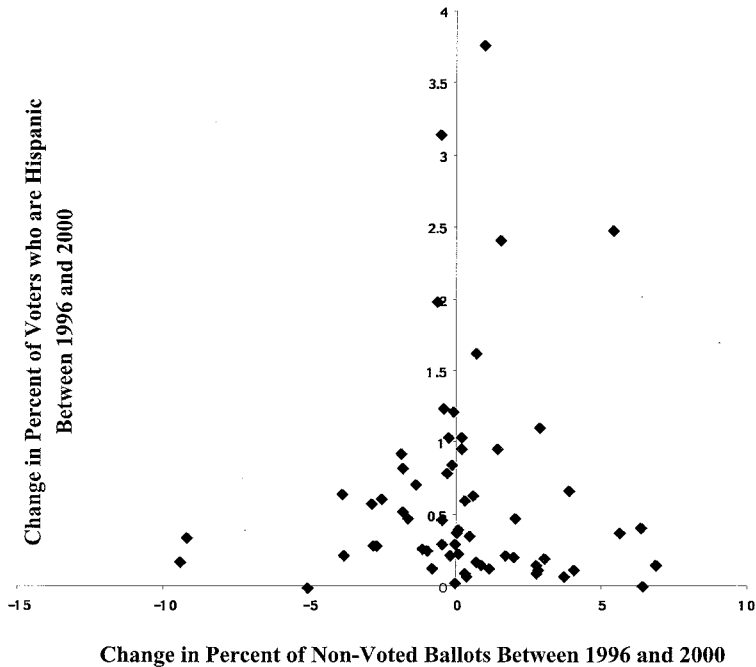


Figure 4: “Other” Voters and Non-Voted Ballot Rate

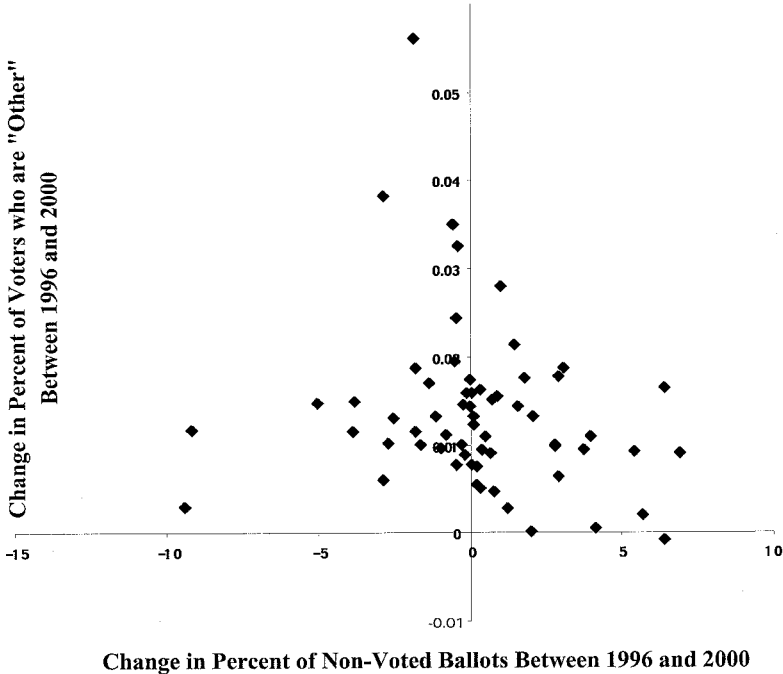


Table 1: Description of Variables Included in the Majority Report's Appendix 1 (N=67 except for the last three rows that we obtained from Florida Secretary of State's Office where N=65. The means are simple averages and are not weighted by population.)

Variable	Mean	Standard Deviation	Minimum Value	Maximum Value
A) Data From Majority Report				
Method of Voting				
Lever Machines	0.0149254	0.1221694	0	1
Optical	0.5820896	0.4969377	0	1
Paper/hand	0.0149254	0.1221694	0	1
Punchcard	0.3880597	0.4909861	0	1
Where Votes are Counted				
Central	0.6268657	0.4872875	0	1
Other (Union and Martin Counties)	0.0298507	0.1714598	0	1
Precinct	0.3432836	0.4783887	0	1
Percent of the Ballots that are Non-voted (though either not voting for a candidate or for voting for too many candidates for President)	0.0390851	0.0311629	0.0018	0.124
Population Demographics				
Percent of Population that is White	81.64925	11.06598	36.3	96
Percent of Population that is African American	16.52537	11.18624	2.6	63
Percent of Population that is Hispanic	7.167164	8.731663	0.9	57.4
Percent of Population that is Minority	24.82239	13.17135	6.9	77
Income Measures				
Median Income	31033.36	5452.027	21982	43061
Poverty Rate	16.74627	5.235176	7.7	27.8
Focus Variable				
Percent of Voters who are African American (from Majority Commission Report)	10.34627	9.106913	1.4	54.4
B) Information on County Election Supervisors not Included in the Majority Report				
Race of Election Supervisor is African American	0.0597015	0.2387212	0	1
Democrat Election Supervisor	0.6865672	0.4673898	0	1
Nonpartisan Election Supervisor	0.0447761	0.2083729	0	1
Republican Election Supervisor	0.26865	0.4466064	0	1
Percent of Voters who are African American and whether the County Election Supervisor is African American	1.019403	6.761685	0	54.4
Percent of Voters who are African American and whether the County Election Supervisor is a Democrat	8.253731	9.911492	0	54.4
Information on the Race and Ethnicity of Voters from the Florida Secretary of State's Office (unlike other variables N=65)				
Percent of Voters who are African American	9.54846	8.713725	1.303079	51.41108
Percent of Voters who are Hispanic	2.451787	6.059622	0.03870	45.54942
Percent of Voters who are White	85.32495	11.32964	30.96044	97.02997

Table 2: Using the Majority Report's Cross County Data for 2000 (The endogenous variable is the percent of non-voted ballots. All coefficients are reported. The dummy variable for "Where Votes are Counted" for Union and Martin Counties was dropped due to collinearity. The first column tried to include the variable for the percent of the general population that was minority but that was also dropped due to collinearity with the other demographic variables. N= 67.)

	1	2	3	4	5	6	7	8
Percent of Voters who are African American	.00073 (0.675)	-.0002 (0.208)	.00087 (3.078)***	.00082 (2.442)**			.00048 (0.525)	.003 (1.607)
Percent of Voters who are African American and whether the County Election Supervisor is a Democrat					.00068 (2.329)**		.00013 (0.161)	
Percent of Voters who are African American and whether the County Election Supervisor is African American						.00093 (2.142)**	.00055 (1.122)	
Method of Voting								
Optical	.0340 (1.887)*	.0342 (1.834)*	.035 (1.880)*	.035 (1.793)*	.0366 (1.895)*	.038 (1.965)*	.035 (1.805)*	.042 (2.370)**
Paper/hand	.0255 (1.021)	.0185 (0.726)	.0248 (0.993)	.024 (0.915)	.0199 (0.771)	.023 (0.888)	.0238 (0.908)	.025 (1.079)
Punchcard	.0204 (1.170)	.022 (1.221)	.023 (1.283)	.0225 (1.212)	.0252 (1.355)	.0271 (1.452)	.0242 (1.282)	.028 (1.658)*
Votes are Counted at the Precinct Level	-.051 (7.658)***	-.045 (7.224)***	-.0449 (7.272)***	-.045 (6.876)***	-.045 (6.870)***	-.0455 (6.892)***	-.044 (6.681)***	-.043 (6.728)***
Percent of Population that is Hispanic	-.005 (2.472)**	-.00093 (1.173)	-.00011 (0.406)	-.00019 (0.608)	-.000125 (0.395)	-.00032 (1.092)	-.00017 (0.534)	
Percent of Population that is White	-.0051 (2.456)**	-.0010 (1.101)						
Percent of Population that is African American	-.00499 (2.179)**							
Percent of Voters who are Hispanic								.0015 (0.756)
Percent of Voters who are White								.0022 (1.206)
Republican Election Supervisor				-.00899 (0.698)	-.0182 (1.503)	-.0191 (1.575)	-.0125 (0.790)	-.0183 (1.494)
Democratic Election Supervisor				-.0071 (0.581)	-.0228 (1.908)	-.014 (1.194)	-.0108 (0.518)	-.016 (1.333)
Race of Election Supervisor African American				-.00178 (0.177)	.002 (0.205)	-.0077 (0.641)	-.0084 (0.667)	-.0004 (0.047)
Median Income	3.38e-7 (0.398)	1.44e-7 (0.165)	4.02e-7 (0.478)	5.35e-7 (0.577)	6.31e-7 (0.685)	1.30e-6 (1.552)	6.16e-07 (0.685)	1.24e-6 (1.486)
Poverty Rate	.0019 (1.837)*	.00141 (1.328)	.0019 (2.035)**	.0020 (1.931)*	.002 (1.895)*	.0029 (3.330)***	.002 (1.919)*	.0024 (2.500)**
R ²	.7600	.7397	.7341	.7370	.7346	.7309	.7433	.7859
Prob>F	.0000	.0000	.0000	.0000	.0000	.0000	.0000	.0000

* Statistically significant at the 10 percent level for a two-tailed t-test.

** Statistically significant at the 5 percent level for a two-tailed t-test.

*** Statistically significant at the 1 percent level for a two-tailed t-test.

Table 3: Description of Variables Used in Cross-Sectional Time-Series Data				
Variable	Mean	Standard Deviation	Minimum Value	Maximum Value
Percent of the Ballots that are Non-voted (though either either not voting for a candidate or for voting for too many candidates for President)	3.641642	3.00916	0	19.08
Information on County Election Supervisors not Included in the Majority Report (N=201)				
Democrat Election Supervisor	0.73134	0.44437	0	1
Nonpartisan Election Supervisor	0.03015	0.17143	0	1
Republican Election Supervisor	0.23116	0.422635	0	1
Percent of Voters who are African American and whether the County Election Supervisor is a Democrat (N=150)	7.186407	9.19716	0	51.41108
Information on the Race and Ethnicity of Voters from the Florida Secretary of State's Office				
Percent of Voters who are African American (N=138)	9.476006	8.629639	0.862250	51.41108
Percent of Voters who are Hispanic (N=137)	2.054501	5.755577	0.019414	45.54942
Percent of Voters who are White (N=138)	86.56636	10.98606	30.96044	97.85489

Table 4: Using County Level Data from 1992 to 2000 (Endogenous variable is the percent of ballots that are spoiled. Weighted least squares are used because of heterogeneity. Fixed county and year effects are not reported.)

	Explaining the Percentage of Ballots Non-voted			
	1	2	3	4
Percent of Voters who are African American	.222 (0.649)	.188 (0.511)	.287 (0.769)	-.0393 (0.240)
Percent of Voters who are Hispanic	.366 (0.757)	.143 (0.273)	.1111 (0.212)	.0169 (0.063)
Percent of Voters who are White	.262 (0.869)	.176 (0.562)	.174 (0.557)	
Percent of Voters who are African American and have a County Election Supervisor who is a Democrat			-.151 (1.371)	
County Election Supervisor is Nonpartisan	5.282 (6.00)***	5.300 (5.798)***	2.667 (1.255)	5.235 (5.969)***
County Election Supervisor is Republican	1.744 (1.744)*	1.766 (1.776)*	-0.722 (0.043)	1.558 (1.733)*
Per Capita Income		-.00023 (1.217)	-.00018 (0.936)	
Per Capita Unemployment Insurance Payments		-.0094 (0.287)	-1.25e-6 (0.000)	
Per Capita Income Maintenance Payments		-.0113 (0.668)	-.0088 (0.521)	
R ²	.8021	.8069	.8128	.7998
Prob>F	.0000	.0000	.0000	.0000

* Statistically significant at the 10 percent level for a two-tailed t-test.

** Statistically significant at the 5 percent level for a two-tailed t-test.

*** Statistically significant at the 1 percent level for a two-tailed t-test.

Table 5: Examining the Racial and Gender Differences Further Using County Level Data from 1992 to 2000 (The regression corresponds to estimate reported in column 1 in Table 4. Endogenous variable is the percent of ballots that are spoiled. Weighted least squares are used because of heterogeneity. The only coefficient signs reported here are those for the percentage of the population that fall into a particular age, sex, and race category. N=199)

The variables below measure the percent of the general population living in a particular age, sex, and race category.	Coefficient Sign	Is the coefficient statistically significant at the 10 percent level for a one-tailed t-test?
Between 20 and 29 years of age		
Percent African American Male	Positive	No
Percent African American Female	Negative	No
Percent White Male	Negative	Yes
Percent White Female	Positive	Yes
Percent Other Male	Negative	No
Percent Other Female	Positive	No
Between 30 and 39 years of age		
Percent African American Male	Negative	No
Percent African American Female	Positive	No
Percent White Male	Positive	Yes
Percent White Female	Negative	Yes
Percent Other Male	Positive	Yes
Percent Other Female	Negative	Yes
Between 40 and 49 years of age		
Percent African American Male	Positive	No
Percent African American Female	Negative	No
Percent White Male	Positive	No
Percent White Female	Negative	No
Percent Other Male	Positive	No
Percent Other Female	Negative	No
Between 50 and 64 years of age		
Percent African American Male	Positive	No
Percent African American Female	Negative	No
Percent White Male	Negative	No
Percent White Female	Positive	No
Percent Other Male	Positive	No
Percent Other Female	Negative	No
Over 64 years of age		
Percent African American Male between	Positive	No
Percent African American Female between	Negative	No
Percent White Male between	Negative	No
Percent White Female between	Positive	No
Percent Other Male between	Negative	No
Percent Other Female between	Positive	No

**Whose Votes Don't Count?:
An Analysis of Spoiled Ballots in the 2000 Florida Election**

Submitted to the Senate Committee on Rules and Administration
July 2, 2001

Copies of this report and all data used in the analysis are available at:

<http://www.hamilton.edu/news/florida/>

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Executive Summary:

A regression analysis of Florida counties shows that the pattern of ballot spoilage in the 2000 general election is due to a variety of factors. Most importantly, while much of the variation in spoiled ballots can be explained by the type of voting system used in a county, there is still a statistically significant relationship between the percentage of black registered voters and the percentage of spoiled ballots. Overall, holding other factors equal, for every 1 point increase in the percentage of registered voters who are black, there was a .114 increase in the percentage of spoiled ballots. This relationship is true even when factors such as voting systems, education, and literacy levels are controlled for. I would also add that while my data and findings were arrived at independently, these findings are essentially the same as those of the U.S. Commission on Civil Rights (USCCR) and therefore contradict the accusations that the USCCR conducted a biased survey with inaccessible data.

Biography of Philip A. Klinkner

Philip Klinkner is associate professor of Government and the Director of the Arthur Levitt Public Affairs Center at Hamilton College in Clinton, NY. Prior to coming to Hamilton, he was an assistant professor at Loyola Marymount University in Los Angeles.

Professor Klinkner graduated Phi Beta Kappa and summa cum laude with a B.A. in Politics from Lake Forest College in 1985. He earned his Ph.D. in Political Science from Yale University in 1992. In 1995, he received the Emerging Scholar Award from the Political Organizations and Parties section of the American Political Science Association. He was a Research Fellow at the Brookings Institution in Washington, D.C. in 1990-91 and a Guest Scholar in 1993 and 1995.

Professor Klinkner has authored numerous books and articles. He is the primary author (with Rogers Smith) of *The Unsteady March: The Rise and Decline of America's Commitment to Racial Equality* (University of Chicago Press, September 1999) which examines the dynamics of race in American politics and history. The book received the inaugural Horace Mann Bond Book Award from the W.E.B. Du Bois Institute for Afro-American Research at Harvard University and was a semifinalist for the 2000 Robert F. Kennedy Book Award.

In addition to his publications, Professor Klinkner has also contributed to the *New York Times*, the *Los Angeles Times*, *The Nation*, *Salon.com*, the *Chicago Tribune*, *Washington Post*, the *Christian Science Monitor*, and many other newspapers and magazines. He has also appeared on many television and radio broadcasts, including C-SPAN, NPR, and Black Entertainment Television.

Professor Klinkner lives with his wife and two children in Utica, NY.

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Education

Yale University, New Haven, CT
M.A. and M.Phil. Political Science, May 1989
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Lake Forest College, Lake Forest, IL
B.A., Political Science, May 1985, Summa Cum Laude.

Teaching Positions

Associate Professor, Department of Government, Hamilton College, Clinton, NY, July 1998 to present.

Assistant Professor, Department of Government, Hamilton College, Clinton, NY, July 1995 to June 1998.

Assistant Professor, Department of Political Science, Loyola Marymount University, Los Angeles, CA, August 1991- June 1995.

Instructor, Department of Political Science, Yale University, September 1988-May 1989 and January-May 1990.

Administrative Positions

Director, Arthur Levitt Public Affairs Center, Hamilton College, Clinton, NY, June 1998 to present.

Research Positions

Guest Scholar, The Brookings Institution, Washington, D.C., September-December, 1995.

Guest Scholar, The Brookings Institution, Washington, D.C., May-June 1993.

Research Fellow, The Brookings Institution, Washington, D.C., August 1990-August 1991.

Honors and Awards

Winner, 2000 Horace Mann Bond Book Award from the Harvard Afro-American Studies Department for *The Unsteady March: The Rise and Decline of America's Commitment to Racial Equality*. Chicago: University of Chicago Press, 1999. (With Rogers Smith, Yale University).

Semi-finalist for the 2000 Robert F. Kennedy Book Award for *The Unsteady March: The Rise and Decline of America's Commitment to Racial Equality*. Chicago: University of Chicago Press, 1999. (With Rogers Smith, Yale University).

1999 "Best of the Best" university press books by the American Library Association for *The Unsteady March: The Rise and Decline of America's Commitment to Racial Equality*. Chicago: University of Chicago Press, 1999. (With Rogers Smith, Yale University).

Emerging Scholar Award from the Political Organizations and Parties Section of the American Political Science Association, 1995.

Casassa Chair of Ethics and Social Values, Loyola Marymount University, 1993-1994.

Dissertation nominated for the American Political Science Association's E.E. Schattschneider Award given to the best dissertation in American government and politics, 1993.

Yale University Prize Teaching Fellowship, 1988-1989.

Phi Beta Kappa, Lake Forest College, 1985.

Phi Beta Kappa Senior Thesis Award, 1985

Survey Research Projects

Survey of Racial Attitudes of Young Americans, conducted by the Arthur Levitt Public Affairs Center at Hamilton College, the NAACP, and Zogby International, August 1999.

Survey of the Political Attitudes of Young Americans, conducted by the Arthur Levitt Public Affairs Center at Hamilton College and Zogby International, November 2000.

Books

The Unsteady March: The Rise and Decline of America's Commitment to Racial Equality. Chicago: University of Chicago Press, 1999. (With Rogers Smith, Yale University).

Winner, 2000 Horace Mann Bond Book Award from the Harvard Afro-American Studies Department.

Semi-finalist for the 2000 Robert F. Kennedy Book Award.

Named one of the 1999 "Best of the Best" university press books by the American Library Association.

Midterm: The 1994 Elections in Perspective. Boulder, CO: Westview Press, 1996 (Editor).

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Book Contributions

"Democratic Party Ideology in the 1990s: New Democrats or Modern Republicans?," in John K. White and John C. Green, eds., *The Politics of Ideas*, 2nd Edition. SUNY Press, 2001.

"The Unsteady March Toward Racial Equality," in Christopher Foreman, ed., *The African American Predicament.* Washington, DC: The Brookings Institution Press, 1999. (With Rogers Smith, Yale University).

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"Court and Country in American Politics: The Democratic Party and the 1994 Election," in Philip A. Klinkner, ed., *Midterm: The 1994 Elections in Perspective.* Boulder, CO: Westview Press, 1996.

"Party Cultures and Party Behavior," in Daniel M. Shea and John C. Green, eds., *The State of the Parties: The Changing Role of Contemporary American Parties.* Lanham, MD: University Press of America, 1994

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Journal Articles

"Beyond Pseudo-Science: Parties and Policymaking." *Polity*, 26 (Summer 1994): 769-791.

"Dwarfing the Political Capacity of the People?: The Relationship Between Judicial Activism and Voter Turnout, 1840-1988." *Polity* 25 (Summer 1993): 633-646.

"The Daniels Election in New Haven and the Failure of the 'Deracialization Hypothesis.'" *Urban Affairs Quarterly*, 27 (December 1991): 202-215. (With Mary Summers)

"The Election of John Daniels as Mayor of New Haven." *PS: Political Science and Politics* 25 (June 1990), pp. 142-145. (With Mary Summers)

Invited Presentations

"The Unsteady March of Racial Equality," presented at the Department of Political Science Research Colloquium, University of Massachusetts, Amherst, February 28, 2001.

"The Unsteady March of Racial Equality," presented at the Institute on Race and Social Division Workshop, Boston University, January 24, 2001.

Panel Discussion on African-American Reparations, Leila Cromwell Day, Smith College, November 2, 2000.

"The Example of Willie Mays and the Quest for Civil Rights" keynote address at the Willie Mays: Breaking the Barriers Award Luncheon, Lawyers' Committee for Civil Rights, San Francisco, CA, July 28, 2000.

Irvine Foundation Roundtable on the Status of African Americans in California Higher Education, University of California, Los Angeles, June 2000.

"Fighting on Two Fronts: War and Racial Equality in American History," presented at the Women, Minorities, and War Workshop, University of Pennsylvania, April 2000.

"The Unsteady March of Racial Equality," delivered at the Claremont Colleges Athenaeum, March 2000.

Summary of Findings:

- There is no evidence that higher rates of spoiled ballots resulted from such individual factors as education and literacy. Instead, the factors influencing spoiled ballots were systemic. Thus, rather than speaking of individuals who spoiled their ballots, we should speak of individuals who were placed in situations in which it was more likely that their ballots would be spoiled. Furthermore, this finding indicates that any effort to reduce the rate of spoiled ballots must focus on systemic solutions--improved technology, more and better election workers, and stronger efforts to investigate and prosecute any instances of corruption and/or racial disenfranchisement.
- Even after controlling for other factors, rates of ballot spoilage remain higher in predominantly black areas than in other areas of Florida. As the last model indicates, with all else being equal, for every 1-point increase in the percentage of registered voters who are black, there was a .07 percentage point increase in spoiled ballots.
- In addition, these rates were even higher where substantial numbers of blacks were found in counties with large margins for George W. Bush. All of this corresponds to and further reinforces the findings of the USCCR that there is evidence of race-based disenfranchisement in the 2000 election in Florida. Consequently, it is important that federal authorities should investigate this matter more thoroughly.
- The analysis offered by the minority members of the USCCR and conducted by Professor John Lott, do not hold up under scrutiny. Not only do these findings under-explain the variance in the rate of spoiled ballots, but when Professor Lott's variables are added to a more sophisticated model, they lack statistical significance. As a result, nothing in Lott's analysis detracts from the finding of the USCCR majority report or the analysis that I've offered here.

Copies of this report and all data used in the analysis are available at:

<http://www.hamilton.edu/news/florida/>

**Whose Votes Don't Count?:
An Analysis of Spoiled Ballots in the 2000 Florida Election**

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This project began in response to media reports about the findings of the U.S. Commission on Civil Rights (USCCR) that indicated higher rates of ballot spoilage in Florida counties with larger numbers of blacks. I was intrigued by this result, so I decided to run my own independent analysis of the data. I should mention that I have no official connection to the USCCR, but I have met two of its members, Abigail Thernstrom and Professor Christopher Edley. I did not, however, contact them before undertaking this analysis. In addition, I did not know Professor Alan Lichtman who conducted the USCCR analysis. Since arriving at my findings, I have spoken by telephone with Professor Lichtman and Professor Edley to inform them of my conclusions. In summary, these findings are mine and mine alone.

As a first step, I obtained data on the dependent variable—the rate of spoiled ballots in each of Florida's counties. This information came from the Governor's Select Task Force On Election Procedures, Standards and Technology, conducted by the Collins Center for Public Policy (the report is available at <http://www.collinscenter.org/info-url2660/info-url.htm>).

The next step was to consider the different independent variables that might explain the differential rates of ballot spoilage. Among the list of possible suspects are the following:

Different types of voting systems:

As the Florida election controversy revealed, different types of voting systems have different rates of accuracy. Perhaps the differences in ballot spoilage rates could be explained by the fact that different Florida counties use different types of voting systems.

The type of voting system is indicated by four variables. **Op/P** refers to optical scan systems in which ballots are read at the precinct where the vote is cast. **Op/C** refers to optical scans

systems in which ballots are collected from individual precincts and read at a central location.

Punchcard refers to the now infamous punchcard voting systems. **Other** refers to the two counties using different types of voting systems. One county uses the lever-machine system and the other uses paper/hand ballots. This information was obtained from the Governor's Select Task Force On Election Procedures, Standards and Technology, conducted by the Collins Center for Public Policy (the report is available at <http://www.collinscenter.org/info-url2660/info-url.htm>)

Turnout:

Turnout, defined as the percent of those registered who actually show up to vote, might influence turnout since it could mean more novice or inexperienced voters. High turnout might also create long lines at the polls and thus voters might be more concerned about completing their ballots quickly than with doing so accurately. Finally, high rates of turnout might also mean polling places in which the number of voters might swamp the available poll workers, thus making them less able to assist voters in completing ballots accurately or in tabulating votes accurately.

Turnout rates are the number of votes cast in the county divided by the number of registered voters in that county. Information on registered voters for each county is available from the Florida Elections Division website:

<http://election.dos.state.fl.us/voterreg/vrArchive/2000voterreg.shtml#general>

Data on the votes cast in each county is available at the Florida Elections Division website:

<http://election.dos.state.fl.us/elections/resultsarchive/Index.asp>

Gore %:

This is defined as the percent of the votes cast in the county for Al Gore. Perhaps the rate of spoiled ballots differed among Republicans and Democrats. Data on the presidential voter for each county is available at the Florida Elections Division website:

<http://election.dos.state.fl.us/elections/resultsarchive/Index.asp>

% Hispanic:

Spoiled ballots might be more common among Hispanics for a variety of reasons, namely less familiarity with English and that recent immigrants might have less knowledge about voting procedures and politics. This data was obtained from the 2000 U.S. Census available at

<http://factfinder.census.gov/servlet/BasicFactsServlet>

Median Income:

Spoiled ballots might be more common among poor people, and/or counties with low incomes might be less able to afford more accurate voting systems. This data was obtained from the 1990 U.S. Census at <http://venus.census.gov/cdrom/lookup>

Literacy:

Many have suggested that less literate voters might be more inclined to spoil their ballots since they will be less capable of reading and following instructions. Data on the literacy by county in Florida is from the 1992 National Adult Literacy Survey. The numbers indicate the percentage of adults in the county at Level 1 Literacy. This is the lowest level of literacy and persons at this

level are unable to complete simple reading tasks, such as understanding a bus schedule. The data is available from the website of the Florida Literacy Coalition at http://www.floridaliteracy.org/level_one.htm

Education:

Like literacy, low education levels might influence rates of ballot spoilage. For this I used the percent of persons aged 25 or older that have completed less than the 9th grade. This data was obtained from the 1990 U.S. Census at <http://venus.census.gov/cdrom/lookup>

% Black Registered Voters:

As the report of the U.S. Commission on Civil Rights claimed and as media reports after the election indicated, the rate of ballot spoilage seemed higher in largely black areas. For this I used the percent of registered voters in the county who are black. Information on registered voters by race for each county is available from the Florida Elections Division website: <http://election.dos.state.fl.us/voterreg/vrArchive/2000voterreg.shtml#general>

Voters per Precinct:

As with turnout, spoiled ballots might result from voters who have had to wait in line. This factor might be reflected in the number of voters per precinct within the county. In addition, with more voters per precinct, it might also be the case that there are fewer election workers to assist in accurately filling out ballots. The number of voters along with the number of precincts in each county is available at the Florida Elections Division website: <http://election.dos.state.fl.us/elections/resultsarchive/Index.asp>

Increase in Registration:

Spoiled ballots might result from increased numbers of first time voters. Since these voters are, by definition, less familiar with the process, they might be more likely to spoil their ballots. One indication of more first time voters might be increased numbers of registered voters over a previous year, in this case 1996, the year of the last presidential election. Information on registered voters for each county in 2000 is available from the Florida Elections Division website: <http://election.dos.state.fl.us/voterreg/vrArchive/2000voterreg.shtml#general>

Information on registered voters in 1996 is available from the Florida Elections Division website: <http://election.dos.state.fl.us/voterreg/vrArchive/1996voterreg.shtml#General>

Increase in Voting:

Another indication of more first time voters might be an increase in the number of actual voters from one election to another. In this case, I've used the percentage increase in voters for each county from 1996 to 2000. Data on election results from both 1996 and 2000 is available from the Florida Elections Division website: <http://election.dos.state.fl.us/elections/resultsarchive/Index.asp>

Other variables: In addition to these variables, I also ran models with the following variables, all of which proved either substantively and/or statistically insignificant:

--county crime rates,
 --percent of elderly population,
 --percent of population under 25,
 --party of the county election supervisor,
 --percent of population with less than a high school diploma,
 --percent of population with some college education,
 --percent of population in rural areas,
 --percent of population English-only speakers,
 --county population density,
 --percent of blacks with less than 9th grade education,
 --percent of blacks with less than a high school diploma,
 --percent of blacks with some college education,
 --increase in percent of registered voters who are black from 1996 to 2000

I then ran a regression model using the fourteen independent variables previously listed. The regression was run using SPSS 10.0 for the Macintosh. The results are as follows:

Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.933(a)	.870	.837	1.257534117413E-02
a Predictors: (Constant), % Increase Vote 96-00, OTHER, Level 1 Literacy, Gore%, Punchcard, 1989 Median \$, Turnout, % Hispanic, Voters/ Precincts, Opt/C, % Black Reg 2000, 96-00 % Increase Total Reg, % < 9th				

Coefficients(a)

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	.06236	.032		1.950	.057
	Opt/C	.04211	.005	.544	8.312	.000**
	Punchcard	.03469	.004	.541	8.612	.000**
	OTHER	.02278	.010	.127	2.379	.021*
	Turnout	-.06523	.031	-.129	-2.087	.042*
	Gore%	-.04972	.022	-.146	-2.309	.025*
	% Hispanic	-.003395	.024	-.011	-.143	.887
	1989 Median \$	.0000004052	.000	.061	.749	.457
	Level 1 Literacy	.03147	.054	.058	.588	.559
	% < 9th	.05617	.055	.094	1.030	.308
	% Black Reg 2000	.133	.024	.392	5.442	.000**
	96-00 % Increase Total Reg	-.001337	.002	-.058	-.718	.476

Voters/ Precincts	-.00001666	.000	-.187	-2.763	.008**
% Increase Vote 96-00	-.01598	.020	-.044	-.781	.439
a Dependent Variable: % Spoiled					
*Significant at the 95% level					
**Significant at the 99% level					

Excluded Variables(b)						
Model	Beta In	t	Sig.	Partial Correlation	Collinearity Statistics	Tolerance
1	Opt/P	.(a)	.	.	.000	
a Predictors in the Model: (Constant), % Increase Vote 96-00, OTHER, Level 1 Literacy, Gore%, Punchcard, 1989 Median \$, Turnout, % Hispanic, Voters/ Precincts, Opt/C, % Black Reg 2000, 96-00 % Increase Total Reg, % < 9th						
b Dependent Variable: % Spoiled						

As the model shows, the following variables were not significant:

1. % Hispanic
2. 1989 Median \$
3. Level 1 Literacy¹
4. % <9th
5. 96-00% Increase in Total Reg
6. % Increase Vote 96-00

Conversely, the following variables were statistically significant at the .05 level or greater.

1. Op/C
2. Op/P
3. Punchcard
4. Other

¹ In his forthcoming book, Judge Richard Posner has his own analysis of Florida's spoiled ballots. According to the book's introduction (available on the web at: <http://www.pupress.princeton.edu/titles/7118.html>) Posner finds that literacy is a significant variable for explaining spoiled ballots. I checked Posner's literacy data however (available at: <http://home.uchicago.edu/~rposner/election>) and found that most of the data corresponded exactly with my own, indicating that we were working from the same data source--the 1992 National Adult Literacy Survey. Most of the data, however, is not all of the data, and I found that in Posner's data a handful of counties, all beginning with the letter M, were in error. Thus, Posner's assertion that literacy is a factor in ballot spoilage rests upon inaccurate data.

5. Turnout
6. Gore %
7. % Black Reg Voters
8. Voters/Precincts

Interestingly, education and income appear to have no effect on the rate of spoiled ballots. Thus there is little evidence in the data for the claim that spoiled ballots in Florida resulted mostly from the individual errors of voters who lacked the education or experience to cast accurate votes. This fact can be seen in the following regression, which I call the “stupid voter” model. In it, I use only those factors that are under the control of the voter: literacy, education, poverty (arguably under the control of individuals, but I’ll put it in anyway), and first time voters (measured by the increase in registration from 1996 to 2000 and the increase in votes from 1996 to 2000).

Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.710	.504	.452	2.307877377782E-02

a Predictors: (Constant), % in Poverty 1997, % Increase Vote 96-00, 96-00 % Increase Total Reg, % < 9th, Level 1 Literacy, % No HSG

Coefficients

Model		Unstandardized Coefficients		Standardized Coefficients		t	Sig.
		B	Std. Error	Beta			
1	(Constant)	-4.682E-02	.018			-2.630	.011*
	Level 1 Literacy	.342	.096	.634		3.562	.001*
	% < 9th	.169	.173	.283		.976	.333
	% No HSG	-5.375E-02	.102	-.154		-.525	.602
	% Increase Vote 96-00	-2.460E-02	.034	-.068		-.731	.468
	96-00 % Increase Total Reg	-4.789E-03	.003	-.207		-1.814	.075
	% in Poverty 1997	2.459E-04	.001	.041		.256	.798

a Dependent Variable: % Spoiled

*Significant at the 95% level

**Significant at the 99% level

As the regressions for the “stupid voter” model indicates, these individually controlled variables exert little explanatory power. The adjusted r^2 is only .452, meaning that the model explains less than half the variance in the pattern of spoiled ballots across Florida counties. Furthermore, none of the variables, save for literacy is statistically significant. This model and the previous one show quite clear that the pattern of spoiled ballots in Florida was much more influenced by systemic factors rather than individual ones.

I then re-ran the model using only the statistically significant variables. The results are as follows:

Model Summary				
Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.931(a)	.866	.850	1.204969268270E-02
a Predictors: (Constant), Voters/ Precincts, Punchcard, OTHER, % Black Reg 2000, Turnout, Gore%, Opt/C				

Coefficients(a)						
		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
Model		B	Std. Error	Beta		
1	(Constant)	0.09650	.018		5.381	.000**
	Opt/C	0.04394	.004	.592	10.137	.000**
	Punchcard	0.03465	.004	.537	9.838	.000**
	OTHER	0.02272	.009	.125	2.563	.013*
	Turnout	-0.08160	.027	-.159	-3.071	.003**
	Gore%	-0.04831	.019	-.141	-2.554	.013*
	% Black Reg 2000	0.13700	.019	.399	7.147	.000**
	Voters/ Precincts	-0.00002	.000	-.233	-4.172	.000**
a Dependent Variable: % Spoiled						
*Significant at the 95% level						
**Significant at the 99% level						

Excluded Variables(b)						
		Beta In	t	Sig.	Partial Correlation	Collinearity Statistics
Model						Tolerance
1	Opt/P	.(a)	.	.	.	.000
a Predictors in the Model: (Constant), Voters/ Precincts, Punchcard, OTHER, % Black Reg 2000, Turnout, Gore%, Opt/C						
b Dependent Variable: % Spoiled						

The previous model seems to do a good job of explaining the rate of ballot spoilage in Florida counties. The adjusted r^2 is .85, indicating that 85 percent of the variation between counties in the rate of spoiled ballots can be explained by these variables.

The model shows that the type of voting system used in a county has a clear impact on the rate of ballot spoilage. In addition, so does the level of turnout, Gore's percent of the vote, the percent of registered voters who are black, and the number of voters per precincts. The fact that higher levels of turnout and more voters per precinct are negatively associated with ballot spoilage seems a bit counterintuitive. On the other hand, higher levels of turnout might also reflect greater political interest and knowledge, and thus probably mean less chance of spoiled or mistaken ballots. With the number of voters per precinct, the result is probably due to the fact that where counties have reduced the number of precincts, they will likely have more poll workers and election officials per precinct, thus making it easier for voters to obtain help in filling out their ballot.

To determine more precisely the impact of different voting systems on the other variables I set up several interactive variables by multiplying the following variable with one another:

Op/P * Turnout
 Op/P * Gore%
 Op/P * % Black Reg Voters
 Op/P * Voters/Precincts
 Op/C * Turnout
 Op/C * Gore%
 Op/C * % Black Reg Voters
 Op/C * Voters/Precincts
 Punch * Turnout
 Punch * Gore%
 Punch * % Black Reg Voters
 Punch * Voters/Precincts
 Other * Turnout
 Other * Gore%
 Other * % Black Reg Voters
 Other * Voters/Precincts

I then re-ran the model using the existing variables and these new interactive variables. After dropping out the non-significant variables, I came up with the following results:

Model Summary				
Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.945(a)	.892	.875	1.100907477018E-02
a Predictors: (Constant), Punch*% Gore, Voters/ Precincts, % Black Reg 2000, Turnout, Gore%, Opt/P, Op/P*Voters/Precincts, Op/P*Gore%, Punchcard				

Coefficients(a)					
		Unstandardized Coefficients		Standardized Coefficients	t
Model		B	Std. Error	Beta	
1	(Constant)	0.08397	.024		3.568
	Op/P	-0.01099	.020	-.173	-.546
	Punchcard	0.06845	.021	1.061	3.184
	Turnout	-0.06101	.025	-.119	-2.429
	Gore%	0.08671	.045	.253	1.910
	% Black Reg 2000	0.11400	.019	.334	5.938
	Voters/ Precincts	-0.00004	.000	-.446	-6.339
	Op/P*Gore%	-0.13600	.049	-.918	-2.769
	Op/P*Voters/Precincts	0.00003	.000	.523	3.415
	Punch*% Gore	-0.17100	.050	-1.222	-3.448
a Dependent Variable: % Spoiled					
*Significant at the 95% level					
**Significant at the 99% level					

Thus, the statistically significant variables that exercise an independent effect are:

1. Punchcard
2. Turnout
3. % of Black Reg Voters
4. Voters/Precincts
5. Op/P * Gore%
6. Op/P * Voters/Precincts
7. Punch * % Gore

In overall terms, the following factors led to increased levels of spoiled ballots:

1. Counties with punchcard ballots
2. Counties with higher percentages of black registered voters
3. Counties with Op/P voting systems with higher numbers of voters per precinct

In addition, the following factors led to lower levels of spoiled ballots:

1. Counties with higher levels of turnout
2. Counties with more voters per precinct
3. Counties with Op/P voting systems with higher percentages for Gore.
4. Counties with punchcard voting systems with higher percentages for Gore.

One aspect of these regressions seems incongruous. According to initial model, the percent for Gore negatively correlates with the percent of spoiled ballots. In other words, if a county has a

higher percent for Gore, it is likely to have fewer spoiled ballots. On the other hand, the percent of registered voters who are black is positively correlated with spoiled ballots—counties with a greater percentage of black registered voters were likely to have more spoiled ballots. This finding seems odd, since the percent of black voters and the percent for Gore are moderately correlated (.415). Another way to look at it is that the model seems to suggest that ballot spoilage is likely to be highest in counties with high percentages of blacks and low votes for Gore.

This is an interesting finding, since if we were to suspect racial disenfranchisement in Florida, we would expect to find it in certain types of counties. Racial disenfranchisement would be least likely to take place in strongly Democratic counties. Election officials would have no incentive to disenfranchise some of their most loyal voters. Conversely, we would also be unlikely to find racial disenfranchisement in heavily Republican areas with very few black voters. Such tactics would yield little benefit and most likely they would be difficult to carry, since the black vote would be less concentrated and identifiable.

On the other hand, racial disenfranchisement would be most likely in counties where there is a significant or at least non-trivial percentage of black voters, but at the same time the county is strongly Republican. In such cases there are enough black votes to create political incentives for racial disenfranchisement and the black vote would be more concentrated and identifiable.

To test this possibility, I developed an additional interactive variable, the percent of registered voters who are black multiplied by the winning vote margin for George W. Bush. This variable provides a good proxy for the types of counties where racial disenfranchisement is most likely to occur. Counties that rank highest have a sizeable black vote and a larger Republican vote. The lowest ranking counties have both a large black vote and go strongly Democratic.

I then re-ran the regressions including this variable.

Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.972	.945	.927	8.411314622509E-03

a Predictors: (Constant), Other*BushMargin, Gore%, Opt/C, Turnout, Other*% Black Reg 2000, Punch*% Black Reg 2000, Punch*BushMargin, Op/C*BushMargin, Voters/ Precincts, Punch*Voters/Precincts, Op/P*BushMargin, % Black Reg 2000, BushMargin*%Black Reg 2000, Op/P*Gore%, Punchcard, Op/C*Gore%

Coefficients

		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
Model		B	Std. Error	Beta		
1	(Constant)	7.885E-02	.016		4.946	.000**

	Opt/C	7.217E-03	.019	.097	.372	.711
	Punchcard	.109	.020	1.687	5.486	.000**
	Turnout	-6.541E-02	.020	-.128	-3.306	.002**
	Gore%	-.185	.039	-.540	-4.757	.000**
	% Black Reg 2000	7.116E-02	.022	.208	3.287	.002**
	Voters/ Precincts	-7.628E-06	.000	-.087	-1.476	.146
	Op/C*Gore%	.256	.056	1.478	4.551	.000**
	Op/P*Gore%	.139	.048	.939	2.878	.006**
	Punch*% Black Reg2000	8.820E-02	.032	.206	2.749	.008**
	Punch*Voters/Precincts	-2.264E-05	.000	-.351	-2.899	.006**
	Other*% Black Reg 2000	.662	.155	.318	4.280	.000**
	BushMargin*%Black Reg 2000	4.784E-06	.000	.663	5.580	.000**
	Op/C*BushMargin	-2.650E-06	.000	-.169	-3.643	.001**
	Op/P*BushMargin	-5.214E-07	.000	-.158	-2.261	.028*
	Punch*BushMargin	-7.523E-07	.000	-.747	-5.588	.000**
	Other*BushMargin	6.536E-06	.000	.189	2.342	.023*

a Dependent Variable: % Spoiled

*Significant at the 95% level

**Significant at the 99% level

Excluded Variables

		Beta In	t	Sig.	Partial Correlation	Collinearity Statistics
Model						Tolerance
1	Opt/P	.	.	.	.	.000
	OTHER	.	.	.	.	.000
	Bush Margin	.	.	.	.	.000
	Punch*% Gore	.	.	.	.	.000
	Other*Turnout	.	.	.	.	.000
	Other*% Gore	.	.	.	.	.000
	Other*Voters/Precincts	.	.	.	.	.000
	Other*BushMargin%Black	.	.	.	.	.000

a Predictors in the Model: (Constant), Other*BushMargin, Gore%, Opt/C, Turnout, Other*% Black Reg 2000, Punch*% Black Reg 2000, Punch*BushMargin, Op/C*BushMargin, Voters/ Precincts, Punch*Voters/Precincts, Op/P*BushMargin, % Black Reg 2000, BushMargin*%Black Reg 2000, Op/P*Gore%, Punchcard, Op/C*Gore%

b Dependent Variable: % Spoiled

As the tables indicate, the adjusted r^2 is now quite high—the model explains over 92 percent of the variance in spoiled ballots. In addition, the percent of black voters remains significant. Finally, in areas where the combined result of multiplying the percent of voters who are black by the voter margin for Bush is positive, there is a positive correlation with spoiled ballots. To put it

another way, not only does being black matter in the model, it also matters where you are black. Strongly Republican areas that also had a sizeable proportion of blacks had a greater incidence of spoiled ballots. While this finding is only suggestive, it is exactly what one would expect to find in a situation where racial disenfranchisement is likely to occur--black voters are a sizeable part of the electorate, but lacked the political power to ensure that their ballots are counted accurately and fairly.

In conclusion, this analysis offers two important findings:

1. There is no evidence that higher rates of spoiled ballots resulted from such individual factors as education and literacy. Instead, the factors influencing spoiled ballots were systemic. Thus, rather than speaking of individuals who spoiled their ballots, we should speak of individuals who were placed in situations in which it was more likely that their ballots would be spoiled. Furthermore, this finding indicates that any effort to reduce the rate of spoiled ballots must focus on systemic solutions--improved technology, more and better election workers, and stronger efforts to investigate and prosecute any instances of corruption and/or racial disenfranchisement.

2. Even after controlling for other factors, rates of ballot spoilage remain higher in predominantly black areas than in other areas of Florida. As the last model indicates, with all else being equal, for every 1-point increase in the percentage of registered voters who are black, there was a .07 percentage point increase in spoiled ballots.

In addition, these rates were even higher where substantial numbers of blacks were found in counties with large margins for George W. Bush. All of this corresponds to and further reinforces the findings of the USCCR that there is evidence of racial disenfranchisement in the 2000 election in Florida. Consequently, it is important that federal authorities should investigate this matter more thoroughly.

Addendum: Evaluating John Lott's Analysis

In response to the findings of the majority of USCCR, the minority members of the Commission submitted an alternative analysis vote spoilage in Florida by Professor John Lott. According to Professor Lott's analysis, the percentage of black voters in a county has no statistical relationship to the percent of spoiled ballots in that county. Rather, the percent of people in poverty is a more important factor for explaining the rate of ballot spoilage. In this section I will evaluate Professor Lott's analysis.

Lott begins his analysis by suggesting that Lichtman's cross-sectional analysis is insufficient, arguing that if African Americans were more likely to spoil their ballots, then changes in spoiled ballots across time should closely correlate with changes in the percentage of African Americans across the same period of time. In a series of scatterplots, Lott shows that there is little if any relationship between the change in percent of spoiled ballots between 1996 and the change in percent of voters who are black between the same years. But Lott makes a critical error by assuming that all other factors that might influence ballot spoilage remained equal between 1996 and 2000. This is extremely doubtful. Consequently, even if increased percentages of black

voters led to increased percentages of spoiled ballots for a particular county, this finding might not be apparent if, for example, that county moved to a more accurate voting system. Evidence of this can be seen in Table 1.

Table 1.

Year 1	Black Spoilage Rate	10%	Black Voters	1000	Black Spoiled Ballots	100
	White Spoilage Rate	5%	White Voters	1000	White Spoiled Ballots	50
			Total Voters	2000	Total Spoiled Ballots	150
			% Black	50%	% Spoiled	7.50%
Year 2a (Increased % Black, Same Voting System)						
Year 2a	Black Spoilage Rate	10%	Black Voters	1200	Black Spoiled Ballots	120
	White Spoilage Rate	5%	White Voters	1000	White Spoiled Ballots	50
			Total Voters	2200	Total Spoiled Ballots	170
			% Black	55%	% Spoiled	7.70%
Year 2b (Increased % Blacks, More Accurate Voting System)						
Year 2b	Black Spoilage Rate	5%	Black Voters	1200	Black Spoiled Ballots	60
	White Spoilage Rate	2.5%	White Voters	1000	White Spoiled Ballots	25
			Total Voters	2200	Total Spoiled Ballots	85
			% Black	55%	% Spoiled	4%

In each year, blacks spoiled their ballots at twice the rate of whites. In Year 1, blacks made up 50 percent of the county population and the rate of spoiled ballots was 7.5 percent. Year 2a represents what Lott expects to find. The percent of voters who are black rises from 50 to 55 percent, leading to a corresponding increase in the percent of spoiled ballots from 7.5 percent to 7.7 percent. But in Year 2a, nothing changes but the percent of voters who are black.

In Year 2b, however, two things change. In addition to the increase in the percent of voters who are black from 50 to 55 percent (as in Year 2a), the county also institutes a new voting systems, cutting the spoilage rate in half, from 10 to 5 percent for blacks and from 5 to 2.5 percent for whites. This change means that in Year 2b, the percent of spoiled ballots declines to 4 percent from 7.5 percent in Year 1, despite the fact that blacks now make up a larger share of the county's voters. Consequently, it is impossible to know the true relationship between change in the percent of voters who are black and change in the percent of spoiled ballots without controlling for other factors, especially voting systems.

Lott then goes on to develop a series of models that, he argues, better explain the rate of spoiled ballots in Florida counties. According to the results of his models, the percentage of black voters

is not a significant factor in explaining the percentage of spoiled ballots in a county. His models also suggest a county's poverty rate has more to do with spoiled ballots than the racial and ethnic makeup of the county.

The ultimate test of any regression model is the amount of variance in the dependent variable that is explained by the independent variables. In this case, how much of the variation in the percent of spoiled ballots across counties is explained. On this score Lott's models are inferior to those that I have developed. Of the eight models listed in Lott's Table 2, the highest r^2 is .7859, meaning that his independent variables explain almost 79 percent of the variation in spoiled ballots across Florida counties (I'll give Professor Lott the benefit of the doubt by assuming that these are adjusted r^2 s. If not, then his models have even less explanatory power). Furthermore, a model using only variables for the different types of voting systems for each county yields an adjusted r^2 of .594. This indicates that the bulk of the explanatory power in Lott's models comes from these variables.

In comparison, even the simplest model that I developed has an adjusted r^2 of .837 and my final model had an r^2 of .927. Put in other terms, my final model is 17 percent more powerful in explaining the pattern of spoiled ballots than Lott's. Furthermore, I also entered several of Lott's variables, namely party of the county election supervisor, percent Hispanic population, and county median income into my earlier model and all came up as statistically insignificant.

Nonetheless, perhaps Lott is on to something with his variables and they might turn up as significant in my final model. Consequently, I reran my model and added in the variables for median income, percent of the population in poverty, and variables for the party of the county election supervisor.

Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.972	.946	.922	8.698121304546E-03

a Predictors: (Constant), NP Supervisor, Bush Margin, % in Poverty 1997, OTHER, Op/C*BushMargin, Punchcard, Turnout, Op/P*BushMargin, % Black Reg 2000, Op/C*Gore%, R Supervisor, Voters/ Precincts, Other*BushMargin, Gore%, Punch*% Black Reg 2000, 1997 Median Household Income, Punch*Voters/Precincts, BushMargin*%Black Reg 2000, Opt/C, Op/P*Gore%

Coefficients

Model		Unstandardized Coefficients		Standardized Coefficients		t	Sig.
		B	Std. Error	Beta			
1	(Constant)	7.706E-02	.032			2.407	.020*
	Opt/C	5.370E-03	.021	.072		.259	.797
	Punchcard	.107	.021	1.655		5.139	.000**

	OTHER	8.580E-02	.022	.472	3.904	.000**
	Turnout	-6.840E-02	.021	-.133	-3.278	.002**
	Gore%	-.181	.042	-.530	-4.335	.000**
	Bush Margin	-7.507E-07	.000	-.788	-5.147	.000**
	% Black Reg 2000	7.136E-02	.027	.209	2.641	.011*
	Voters/ Precincts	-8.998E-06	.000	-.103	-1.516	.136
	Op/C*Gore%	.256	.059	1.479	4.329	.000**
	Op/P*Gore%	.133	.051	.901	2.602	.012*
	Punch*% Black Reg 2000	8.819E-02	.035	.206	2.538	.015*
	Punch*Voters/Precincts	-2.296E-05	.000	-.355	-2.773	.008**
	BushMargin*%Black Reg 2000	4.854E-06	.000	.673	5.123	.000**
	Op/C*BushMargin	-1.941E-06	.000	-.124	-2.451	.018*
	Op/P*BushMargin	1.884E-07	.000	.057	.826	.413
	Other*BushMargin	-2.455E-06	.000	-.071	-1.088	.282
	% in Poverty 1997	-3.233E-05	.001	-.005	-.051	.959
	1997 Median Household Income	2.115E-07	.000	.037	.443	.660
	R Supervisor	-1.617E-05	.004	.000	-.004	.997
	NP Supervisor	-2.651E-04	.005	-.002	-.052	.959

a Dependent Variable: % Spoiled

*Significant at the 95% level

**Significant at the 99% level

Excluded Variables

Model		Beta In	t	Sig.	Partial Correlation	Collinearity Statistics
1	Opt/P	.	.	.	.	Tolerance
	Punch*% Gore	.	.	.	.	.000
	Other*Turnout	.	.	.	.	.000
	Other*% Gore	.	.	.	.	.000
	Other*% Black Reg 2000	.	.	.	.	.000
	Other*Voters/Precincts	.	.	.	.	.000
	Punch*BushMargin	.	.	.	.	.000
	Other*BushMargin%Black	.	.	.	.	.000
	D Supervisor	.	.	.	.	.000

a Predictors in the Model: (Constant), NP Supervisor, Bush Margin, % in Poverty 1997, OTHER, Op/C*BushMargin, Punchcard, Turnout, Op/P*BushMargin, % Black Reg 2000, Op/C*Gore%, R Supervisor, Voters/ Precincts, Other*BushMargin, Gore%, Punch*% Black Reg 2000, 1997 Median Household Income, Punch*Voters/Precincts, BushMargin*%Black Reg

2000, Op/C, Op/P*Gore%
 b Dependent Variable: % Spoiled

As the tables indicate, adding in Lott's variables to my final model increases the unadjusted r^2 only from .945 to .946, a trivial increase. Indeed, I added a random variable (the number of letters in the name of the county) and the r^2 also increased from .945 to .946, indicating that the addition of Lott's variables adds no more explanatory power than the addition of a random variable. (In fact, the significance of this random variable was .283, making it more statistically significant than any of Lott's variables!)

Since the addition of any variable (even a random variable like the number of letters in the name of the county) will increase the r^2 of a model, the more important statistic is the adjusted r^2 , which controls for the number of variables in the model. Adding Lott's variables to my model drops the adjusted r^2 from .927 to .922. In other words, adding in the variables that Lott claims have the most explanatory power actually makes my model less, not more, powerful. Furthermore, none of Lott's variables is statistically significant, and their addition to the model causes only two of the original variables, Op/P*BushMargin and Other*BushMargin, to fall out of significance. The percent of registered voters who are black remains statistically significant and the correlation coefficient remains largely the same as in my earlier model.

In conclusion, Lott's findings do not hold up under scrutiny. Not only do they under-explain the variance in the rate of spoiled ballots, but when his variables are added to a more sophisticated model, they lack statistical significance. As a result, nothing in Lott's analysis detracts from the finding of the USCCR majority report or the analysis that I've offered here.

Submitted by Chairman Dodd
for the Hearing Record



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TESTIMONY
OF THE
MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND

CONCERNING

ELECTION REFORM

SUBMITTED TO THE

SENATE COMMITTEE ON RULES AND ADMINISTRATION

JUNE 27, 2001

BY

MARISA J. DEMEO
REGIONAL COUNSEL

INTRODUCTION

The Mexican American Legal Defense and Educational Fund (MALDEF) appreciates the opportunity to submit written testimony regarding election reform. MALDEF is a national nonprofit organization dedicated to protecting and promoting the rights of Latinos in the areas of education, employment, political access, immigrants' rights, and public resource equity. We achieve our mission through community education, litigation and advocacy. Founded in San Antonio, Texas, in 1968, MALDEF now is headquartered in Los Angeles with offices in Sacramento, San Antonio, Houston, Albuquerque, Phoenix, Chicago, Atlanta, and Washington, D.C.

Under our political access program, MALDEF has concentrated on protecting the voting rights of Latinos throughout the United States. MALDEF and its voting rights attorneys are recognized as experts on the Voting Rights Act as it applies to Hispanics. While MALDEF would be pleased to appear before the committee in person in the future to describe our voting rights work in more detail, we are pleased at this time to have the opportunity to submit written testimony for the record. Since the committee is collecting information on problems that occurred during the presidential election of 2000, we wish to review briefly the litigation we have filed in Illinois. In addition, we will outline some voting barriers Latinos have encountered in Texas.¹ Finally, our testimony will discuss the need to increase voter participation in federal elections.

¹ Although the testimony focuses on only two states, these incidents described are meant to serve as examples of barriers that exist beyond these two states for Latino voters. MALDEF works as a national organization and collects these types of complaints from additional areas in the United States with significant Latino populations.

DISENFRANCHISEMENT OF LATINOS AND AFRICAN-AMERICANS IN ILLINOIS

MALDEF is submitting a brief description of its litigation in Illinois, aware that additional testimony has and will be submitted by other Latino and civil rights entities outlining other areas of concern.² MALDEF has filed a civil rights class action lawsuit in the Northern District Court of Illinois on behalf of Latino and African-American voters challenging the non-uniform, arbitrary, and unequal system of voting in Illinois as violating §2 of the Voting Rights Act, 42 U.S.C. §1973, and the Fourteenth Amendment to the Constitution of the United States.³ The defendants include members of the Illinois State Board of Elections as well as a number of local election commissions and voting officials – Chicago Board of Election Commissioners; Clerk of Cook County; Cook County; East St. Louis Board of Election Commissioners; Alexander County; Clerk of Alexander County; Sangamon County Board of Election Commissioners; Will County; Clerk of Will County; Whiteside County; and Clerk of Whiteside County.

At issue in the complaint is that the type of voting systems that are located in predominantly Latino and African-American voting areas are more likely to produce errors in voting that are not corrected, than those voting systems available in other jurisdictions, thus infringing on the Latino and African-American right to vote. In Illinois, most jurisdictions, including some of the jurisdictions with the highest concentrations of Latino and African-American voters, use punch-card ballots. Other

² At the March 14, 2001 hearing on election reform before this committee, witness Juan Figueroa, President and General Counsel of the Puerto Rican Legal Defense and Educational Fund (PRLDEF) gave testimony outlining the facts alleging that Puerto Rican and other Latinos were denied the opportunity to vote in central Florida. PRLDEF also presented similar testimony before the United States Commission on Civil Rights (USCCR), and we understand USCCR will be presenting testimony on their findings to this committee. The National Council of La Raza (NCLR) submitted written testimony at the March 14, 2001 hearing before this committee, focusing on a variety of barriers to voting for Latinos and Asian-Americans, particularly regarding language barriers, and we understand that NCLR will be presenting oral testimony before this committee.

³ The facts set forth in this testimony are taken from the amended complaint filed by MALDEF in federal district court. The lead attorney on the litigation for MALDEF is Maria Valdez, Senior Litigator, in MALDEF's Chicago office.

jurisdictions use optically-scanned ballots. Most of the jurisdictions that use optically-scanned ballots provide voters at the time they are at the poll with notice of certain errors on their ballots, and provide those voters an opportunity to vote again to correct the errors. This process is called “error notification.” For purposes of the litigation, “errors” refer to the case where a voter’s ballot contains more votes for an office than is allowed by law (an “overvote”) or in which the tabulating machines cannot accurately read the voter’s ballot. Punch-card ballots and optically-scanned ballots without error notification have a higher error rate for recording, counting, and tabulating votes, than do optically-scanned ballots with error notification. In addition, punch-card ballots have a higher error rate among Latino and African-American voters than among non-minority voters.

In Illinois, the state legislature has refused to change the state law to allow or require error notification to voters in election jurisdictions using punch-card voting systems. By comparison, state law requires error notification in election jurisdictions using optical-scan voting systems where the ballots are counted in-precinct. At these precincts, voters can have their ballots placed in tabulation equipment, which will return any ballot with an overvote or which cannot be read. Then the voter has the opportunity to obtain a new ballot and correct the vote.

In the presidential election of 2000, the rates of votes not counted (the “falloff rate”) on ballots cast statewide was approximately 3.85%. In jurisdictions using optical-scanning systems with error notification, the falloff rate was approximately 0.5%. By comparison, in jurisdictions and wards with significant Latino and African-American populations, the falloff rate was significantly higher. The City of Chicago, which used the punch-card voting system without error notification, had a falloff rate of 7%. In the Chicago wards where 65% or more of the residents are Latinos and/or African-Americans, the falloff rates were even higher. In the heavily Latino 12th ward, the falloff was 12.6%,

and the predominantly African-American 37th ward was 12.4%. Similarly, the township of Cicero, with a significant Latino population and located within Cook County, using a punch-card system without error notification, had a falloff rate of 8.8%. The City of East St. Louis, with a significant African-American population and which used optical-scan balloting but without error notification, had a falloff rate of approximately 11%.

To summarize the primary facts in the case, the majority of Latino and/or African-American voters live in jurisdictions that use punch-card voting systems or that use optical-scan ballots without error notification, which result in substantially higher rates of voting error than optical-scan ballots with error notification. A larger proportion of Illinois' Latino and African-American voters live in such jurisdictions than the proportion of Illinois' white voters who live in such jurisdictions. Moreover, in jurisdictions with punch-card voting systems, areas with high Latino and/or African-American populations have higher error rates than areas with high non-minority populations. As a consequence, Illinois' Latino and African-American voters are significantly less likely to have their votes counted than non-minority voters. Thus, in elections at all levels, including municipal elections, the voting strength of Latino and African-American voters is thereby diluted and these voters have less opportunity than other members of the electorate to participate in the electoral process, to form coalitions with like-minded voters, and to elect representatives of their choice.

These facts substantiate the allegation that the plaintiffs' rights to equal protection of the laws as guaranteed by §2 of the Voting Rights Act, 42 U.S.C. §1973, and the Fourteenth Amendment to the Constitution of the United States have been violated.

While MALDEF is pursuing remedies for those wronged in Illinois, in general, the federal

government could play a more proactive role in this area of elections by setting national federal standards for uniform and nondiscriminatory voting systems as they are used in federal elections. In addition, the federal government could provide grant money to states to assist them with improving and/or replacing voting equipment and technology.

BARRIERS TO VOTING FOR LATINOS IN TEXAS

Latinos face a wide range of barriers to full and effective participation in the voting process in Texas. In this testimony, MALDEF will focus on lack of training for election judges; provisional ballots; compliance with §5 of the Voting Rights Act, 42 U.S.C. §1973; and voter intimidation.⁴

With regard to training for election judges, MALDEF has received numerous complaints about election judges not administering elections in accordance with standing laws and regulations. Often, judges turn Latinos away from voting polls after telling them that they are not on the list of registered voters. Although Texas law allows a voter whose name does not appear on the voting rolls to complete a challenge affidavit and cast a vote, election judges often are unaware of this law and do not provide the voters an opportunity to vote.

These examples demonstrate the need for additional education and training of election personnel. The federal government could play a role in this area with regard to federal elections by providing grant money for these purposes. In addition, the examples demonstrate the importance of not only having state laws for provisional voting, but also a mechanism to ensure notice and compliance with those laws. The federal government could play a role with setting standards in this area with regard to

⁴ To write this testimony, the author relied on testimony filed by Nina Perales, Staff Attorney in the MALDEF San Antonio office, with the State Democratic Caucus Special Committee on Election Reform in May 2001.

federal elections.

Jurisdictions covered by §5 of the Voting Rights Act must receive administrative approval from the United States Attorney General or judicial approval from the United States District Court for the District of Columbia for all proposed changes in voting laws or practices by proving that the proposed changes do “not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color [or membership in a language minority group].” Texas is one of nine states fully covered by §5; an additional seven states are partially covered by §5. Section 5 coverage reaches all changes in voting, including polling location changes and changes in the hours of polling places. In the 1998 elections in Texas, MALDEF had to bring a lawsuit to prevent Bexar County from closing, without the §5 federal preclearance required, a number of early voting polling places in Latino and African-American neighborhoods. Whatever Congress decides to do in the area of election reform, compliance with existing federal voting laws must remain a central component since there is still a significant level of noncompliance by state and local jurisdictions.

MALDEF continues to intervene in situations of voter intimidation of Latino voters. In 2000, MALDEF defended a number of elderly Latino voters who were being harassed by a local district attorney in Fort Stockton, which is located in West Texas. It is very common for elderly and disabled Latino voters to cast their ballots by mail because they cannot physically travel to the polls. The people who help the elderly and disabled absentee voters are often Latinas from the neighborhood who have assisted voters for decades. In a particularly close race for district attorney in the Fort Stockton area, the adjacent district attorney launched an investigation into the absentee voting of elderly and disabled Latinos, sent uniformed officials to their homes, demanded some people appear for a videotaped interrogation, asked them to reveal for whom they had voted, and ultimately gave

the results of the investigation to the disgruntled loser of the election who then subpoenaed some of these elderly voters to appear in a court over 80 miles from their homes. MALDEF appeared to quash the subpoenas of the voters who could not appear. Many of the voters stated they would not vote again because of all they had experienced. Although this particular incident happened in a local election, federal elections are not immune from incidences of voter intimidation. The Department of Justice does have the authority to send federal observers to jurisdictions in which intimidation has occurred or is expected. Continued vigorous oversight by Congress of the Department's enforcement activities is warranted to ensure no one is denied the fundamental right to vote, particularly through voter intimidation.

INCREASING VOTER PARTICIPATION IN FEDERAL ELECTIONS

The current population reports published by the Census Bureau for the 1986, 1990, 1994, and 1998 congressional election years reveal a fairly consistent pattern of low registration rates and even lower voting participation rates for the general population.⁵ This disparity is further magnified for minorities, especially Hispanics who have particularly low registration and voting rates. In the four elections between 1986 and 1998, white registration rates fluctuated between 64%-68% of the white voting age population, and 47% of the white voting age population consistently voted in elections. Black registration fluctuated between 56%-64%, while their voting rates ranged from 37%-43%. By comparison, Hispanic registration rates ranged between 31%-36%, and their voting rates ranged from 20%-24%. Some of this disparity between Hispanic registration and voting as compared to whites and blacks can be attributed to differences in citizenship rates. For example, the report on the 1998

⁵ U.S. Dep't of Commerce, Bureau of the Census, Voting and Registration in the Election of November 1990 (1991); U.S. Dep't of Commerce, Bureau of the Census, Voting and Registration in the Election of November 1994 (1996); U.S. Dep't of Commerce, Bureau of the Census, Voting and Registration in the Election of November 1998 (2000).

elections analyzed registration and voting of citizens. In that election, 69% of whites, 64% of blacks, and 55% of Latino voting age citizens were registered to vote. Of the citizen voting age population, 47% of whites, 42% of blacks, and 33% of Latinos actually voted. Despite the decrease in the differences between Latinos and non-Latinos when citizenship is taken into account, there still exists a significant disparity both in registration and voting rates.

A similar pattern exists for the elections that have occurred during presidential election years.⁶ The federal government should play a role in examining how to make the voting process more accessible and to increase voter participation rates of all voters, with special emphasis on identifying the particular needs of minority voters who are registered and vote less. The Census Bureau's own analysis reveals that both white and black registered voters listed as their top three reasons for not voting as: 1) no time off/too busy; 2) not interested; 3) ill/disabled/emergency.⁷ While these three reasons fall into Latino registered voters' top four reasons for not voting, Latinos also listed "other reasons" for not voting as the second most common reason for not voting.⁸

It is in the country's interest to increase voter participation of all voters in all elections; however, Congress could at least play a role in increasing voter participation in federal elections. MALDEF would be pleased to provide further input in this process should this committee decide to further explore this area of access and participation in voting.

⁶ See, U.S. Dep't of Commerce, Bureau of the Census, Voting and Registration in the Election of November 1996 (1998). The results from the 2000 presidential election have not been released yet by the Census Bureau.

⁷ *Id.*

⁸ *Id.*

CONCLUSION

In MALDEF's written testimony before the Senate Committee on Rules and Administration, we have provided some examples of barriers to voting experienced by Latino voters in two states, Illinois and Texas, in order to provide more information beyond the highly-publicized disenfranchisement of voters in Florida. While the country focused on Florida's election system during the months of November and December of 2000, Florida only received that attention and scrutiny because of the close presidential election which was decided by the outcome of the close Florida vote. In actuality, many voters, and particularly minority voters, face barriers to voting and a dilution of their vote in many elections throughout the states.

It is time for Congress to become engaged and take action in the area of election reform, but the reform must be comprehensive. Part of the solution is related to voting systems and the technology available, as our Illinois litigation points out, but there are many other barriers to voting, as exemplified with our reports from Texas. In the end, what will serve our country and serve its citizens is a comprehensive approach from the federal government to both set some key national standards ensuring that there is a minimum states and localities must do in order to ensure equal access to the voting polls, as well as provide grant money to states providing the incentive to go beyond the minimum standards to ensure each and every voting age citizen has the full opportunity to express his/her opinion at the voting polls. The federal government will run better and better serve its constituents when more voters participate in federal elections. The goal of Congress should be to pass legislation this year so that by 2002, there will be more access to registration and voting for all citizens.

Submitted by Chairman Dodd
for the Hearing Record



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Civil Rights Coalition Applauds Civil Rights Commission's Report: Also Supports Swift Action on Election Reform Legislation

The Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse coalition of civil and human rights organizations, today issued the following statement regarding the U.S. Commission on Civil Rights' recent report on the 2000 general elections and the Senate Rules Committee hearing on election reform legislation.

"LCCR commends the U.S. Commission on Civil Rights for its recent report on the 2000 general elections," said Wade Henderson, Executive Director, LCCR. "It is a shocking confirmation of our worst fears about the effects of voting irregularities on the rights of Florida's African American citizens."

The Civil Rights Commission found that the disenfranchisement of Florida's voters fell most directly and unevenly on the shoulders of African Americans. Based upon county level statistical estimates, African American voters were nearly ten times more likely than white voters to have their ballots rejected in Florida. On a statewide basis, while African Americans comprised approximately 11% of all voters in Florida in the 2000 presidential election, African Americans cast about 54% of the ballots that were rejected in the election.

Henderson added, "Florida was clearly the nation's epicenter of African American voter disenfranchisement and the Commission's findings regarding the scope of the disparate impact between African American and non-black voters are truly stunning. Double digit disparities in the votes cast between black and non-black citizens go well beyond the norm, and seem to belie the rules of statistical chance."

Henderson lambasted the recent attacks on the Civil Rights Commission's report calling them "a predictable cover for those opposed to enacting meaningful election reform."

Henderson continued, "These findings demand a thorough investigation by the U. S. Department of Justice as to their cause, and to determine whether additional enforcement action is required." Henderson also called upon President Bush to "enter this important civil rights debate and work with Congress to address the problems now evident as a result of the last election and to provide the funding necessary to implement needed remedies prior to the next national election."

Reiterating the civil rights coalitions' support for federal legislation introduced by Rep. John Conyers (D-MI) and Sen. Chris Dodd (D-CT) ensuring fair elections for all Americans, Henderson highlighted the coalition's Make Elections Fair campaign (see www.MakeElectionsFair.org). The legislation, known as the **Equal Protection of Voting Rights Act (H. R. 1170/S. 565)**, ensures non-discriminatory, equal access to the electoral process for all voters.

"Election reform is not a partisan issue; it is a national imperative. Our democracy cannot remain a beacon of freedom if we are known to violate the "one person, one vote" requirement," Henderson concluded. "We applaud the Senate Rules Committee for undertaking this important first step in bringing meaningful election reform legislation to the floor of the U.S. Senate and urge the House of Representative to follow suit."

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The Leadership Conference on Civil Rights is the nation's oldest, largest and most diverse coalition of organizations committed to the protection of civil and human rights in the United States. For more information, visit www.civilrights.org



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**WRITTEN TESTIMONY OF
BARBARA R. ARNWINE, EXECUTIVE DIRECTOR OF THE LAWYERS'
COMMITTEE FOR CIVIL RIGHTS UNDER LAW**

**THE UNITED STATES SENATE COMMITTEE ON RULES AND
ADMINISTRATION
HEARING ON IMPROVING CONDUCT OF FEDERAL ELECTIONS
ELECTION REFORM**

June 27, 2001

The Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee") would like to thank Chairman Dodd and Senator McConnell for holding these important hearings and for providing the Lawyers' Committee with the opportunity to participate. We appreciate the opportunity to present to the Senate Committee on Rules and Administration information about matters critically important to the constituencies of the Lawyers' Committee, namely, the recent disenfranchisement of African-American voters during the November 7, 2000 elections and the subsequent need for comprehensive electoral reform.

The Lawyers' Committee for Civil Rights Under Law is a 38 year old nonpartisan, nonprofit civil rights legal organization. It was formed in 1963 at the request of President John F. Kennedy to involve the private bar in providing legal services to address racial discrimination. The principal mission of the Lawyers' Committee is to secure, through the rule of law, equal justice under law. As such, the Lawyers' Committee has a project devoted to Voting Rights, the mission of which is to advance and protect the voting rights of African Americans and other racial minorities throughout the United States. In addition to investigating the complaints that have come out of Florida, the Voting Rights Project of the Lawyers' Committee has been intensely involved in redistricting efforts, felon disenfranchisement cases and Census 2000 issues.

Beginning on election day, the Lawyers' Committee started to receive hundreds of complaints about irregularities from voters throughout Florida. Those complaints had escalated so much by Thursday, November 9, 2000, that the Lawyers' Committee, at the request of the NAACP, sent a team of lawyers to Miami, Florida. These lawyers spent the next several days investigating, taking complaints and hearing directly from voters throughout Florida about the troubles they encountered when they went to vote. Reacting quickly to the complaints they received, the NAACP demonstrated outstanding and effective leadership by immediately arranging to hold public hearings in Miami on the Saturday following the election in order to better learn what happened on election day.

The Lawyers' Committee participated in these hearings. They illuminated the extent of the problem – people from all over the state testified about barriers they encountered or saw others encounter, including intimidation, wrongful purging of eligible voters from precinct voter lists, moved or demolished polling places, failure to process new voter registration forms, improper requests for multiple forms of identification and other kinds of disparate treatment of minority voters on election day.

Many complaints we heard implicate both state and federal voting rights laws. The problems were indicative of major countywide and statewide systemic voting practices which worked to disenfranchise black voters. These included practices that invalidated a disproportionate number of ballots cast by black voters, and resulted in qualified black voters not being allowed to vote.

The individuals we heard from in Florida were devastated and demoralized by the fact that a right of citizenship that they hold so precious was taken away. We present here a few examples of the most egregious complaints that we received. These are complaints which we included in a lawsuit that we filed in January together with a number of civil rights legal organizations¹ on behalf of the NAACP by its Florida branch and 21 named plaintiffs (see attached.)

VALERIE BUFORD-WELLS is a properly registered voter residing in Broward County. On November 7, 2000, Ms. Buford-Wells went to her assigned precinct and presented her voter registration card and driver's license to the precinct official. The official informed her that her name was not on the list of registered voters. The precinct official tried to call the Broward County Supervisor of Elections office but the line was busy. There is no valid basis upon which Ms. Buford-Wells could have been purged from the voter rolls. Ms. Buford-Wells was improperly denied the right to vote.

MICHELLE FLOYD, a college student and new voter, submitted a completed voter registration application to the Leon County Supervisor of Elections in September 2000. On November 7, 2000 she went to vote at her local polling site at the Florida A&M University Grand Ballroom. Ms. Floyd was listed on the precinct register, but instead of being given a ballot, she was referred to a clerk at another table. The clerk reviewed Ms. Floyd's identification, but then told her she could not vote and she would have to call someone else to deal with her situation. Ms. Floyd was never permitted to vote on November 7. Shortly after the election, Ms. Floyd received her voter registration card in the mail. The card listed her registration date as September 5, 2000 and her polling site as the Grand Ballroom, where she went to vote in November. Ms. Floyd was improperly denied the right to vote on November 7, 2000.

WILLIE STEEN has been a properly registered voter living in Hillsborough County,

¹The civil rights organizations involved in the Florida lawsuit, *NAACP v. Harris*, include the Lawyers' Committee for Civil Rights Under Law, the NAACP, the ACLU Foundation, People for the American Way Foundation, the NAACP Legal Defense and Educational Fund and the Advancement Project.

Florida since he was honorably discharged from the military in 1993. He has lived at his current address since December 1999. On November 7, 2000, Mr. Steen went to vote for the first time. When he arrived at his polling place, he was told that he could not vote because he had a felony conviction. Mr. Steen has never been arrested or convicted of any crime. Mr. Steen was improperly denied the right to vote.

After the mass disenfranchisement of voters that Americans witnessed on election day, it is imperative that we work to ensure extensive electoral reform regarding the manner in which Floridians and, in fact, all Americans vote. It is our moral imperative to help restore the faith of black and other minority voters in our democracy.

We need to eliminate voting practices which result in the denial of the right of all citizens to vote on account of race, color or other discriminatory classification. The remedies that we have sought through the Florida litigation model the types of changes necessary to ensure equal representation in all states within our democracy. Any legislation that contemplates reforming the way Americans vote must guarantee that all Americans have an equal opportunity to cast their ballot and have that vote counted.

As a nation we must be committed to voting practices which promote fairness and justice. The Lawyers' Committee believes that it is critical that comprehensive voting reform legislation be passed by this Congress. We commend Senator Dodd, in the U.S. Senate, and Representative Conyers, in the U.S. House of Representatives, for providing leadership on this critical issue and sponsoring comprehensive electoral reform legislation. We know that the irregularities in Florida are just the tip of the iceberg. Make no mistake, voters across the United States, especially minorities, language minorities, the elderly and disabled experienced tremendous problems voting in this past election.

Voting reform legislation must protect current voting rights laws and should include a comprehensive commitment to standards and technology which are non-discriminatory and which will ensure that new voting systems and procedures do not disproportionately hinder the ability of African Americans to vote.

New voting technology is important but it alone is not the answer. There must be uniform standards, better training of precinct officials, those officials must be provided with the resources to ensure that all registered voters have the opportunity to vote, and all precincts must have equitable access to voter rolls. There must be more information, education and training available to first-time voters, voters who vote infrequently or who are unfamiliar with the local procedures because they have recently moved. States and localities can do a better job of making sure that voters are aware of their rights under federal and state laws, and have plenty of time to make their choices once they have a ballot. The primary goal must be to guarantee every eligible voter's right to cast a ballot free from discrimination and intimidation.

The Lawyers' Committee joins with our allies in the civil rights, labor, religious, disability and other communities to urge strong support for "The Equal Protection of Voting Rights Act." ("The Act") (H.R. 1170, S. 565). We believe this Act is a comprehensive and meaningful bill that

addresses the problems that voters all over our nation experienced on election day 2000. It is the only legislation to effectively address the myriad of problems which continue to plague our electoral system. It does so by demanding nondiscrimination in the voting process and ensuring equal access to the ballot for all voters regardless of their race, disability, or status as a language minority. It is the only legislation to establish uniform statewide voting procedures and it contains important language requiring poll worker training, a voter bill of rights, and utilization of provisional ballots. In addition, it creates clear standards for the accommodation of language minorities and disabled voters and provides funding necessary to ensure the implementation of all of these provisions.

We must put the lessons of Florida to good use and keep the promise of election reform alive for people all over our nation who had trouble voting and felt that their votes did not count on election day. The cries of those Americans must be heard, for we do not want first generation voters and future generations to be discouraged from exercising this critical constitutional right.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case No. 01-0120-CIV-GOLD/SIMONTON

-----X
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF
COLORED PEOPLE, INC. by its FLORIDA STATE
CONFERENCE OF BRANCHES, JIMMIE PANNELL, JULIA
STONER, NATALIE CARNEGIE, ERMA J. KELLY, JOHN L.
CHEEVER, JAMES MARSHALL, LILLIE Q. ODOM, WILLIE
STEEN, WALLACE MCDONALD, JERMAINE TERRY,
LORINE WALDEN, EMERY TIMBERLAKE, VALERIE
BUFORD-WELLS, MICHELLE FLOYD, CONSUELO MARIA
GRAHAM, SHERRY EDWARDS, KANDY WELLS, JOANNA
CLARK, JANICE KELLY, PLACIDE DOSSOUS, RONDRICK
ROSE, and URSULA HARVEY, in their own right and as
representatives of all similarly situated citizens and residents of
the State of Florida,

**AMENDED
COMPLAINT -
CLASS ACTION**

Plaintiffs,

vs.

KATHERINE HARRIS, Secretary of State of Florida; CLAY
ROBERTS, Director of the Florida Division of Elections; FRED
DICKINSON, Executive Director of the Florida Department of
Highway Safety and Motor Vehicles; KATHLEEN A.
KEARNEY, Secretary of the Department of Children and
Families; DAVID C. LEAHY, Miami-Dade County Election
Supervisor; MIRIAM OLIPHANT, Broward County Election
Supervisor; JOHN STAFFORD, Duval County Election
Supervisor; PAM IORIO, Hillsborough County Election
Supervisor; ION SANCHO, Leon County Election Supervisor;
WILLIAM COWLES, Orange County Election Supervisor; and
DEANIE LOWE, Volusia County Election Supervisor (all in their
official capacities); and CHOICEPOINT, INC., a Georgia
corporation d/b/a DATABASE TECHNOLOGIES INC.,

Defendants.

-----X

PRELIMINARY STATEMENT

1. This action is brought by the National Association for the Advancement of Colored People by its Florida State Conference of Branches ("NAACP") on its own behalf and on behalf of its Florida members, and by individual black voters, whose right to vote in the general election held in the State of Florida on November 7, 2000 was unlawfully denied or abridged.

2. In 2000, the NAACP made extensive efforts to register new voters and to encourage its members to vote. As a result of the efforts of the NAACP, the NAACP National Voter Fund, and other organizations, turnout among black voters in Florida increased significantly in the November 7, 2000 general election, compared to recent general elections. However, black voters were confronted with a multitude of non-uniform election practices that impeded their exercise of the franchise or disenfranchised them. In particular, as a result of the practices complained of in this action, in precincts with substantial numbers of black voters, there were a disproportionate number of ballots with no vote counted for the office of President of the United States, black voters were wrongfully purged from official lists of eligible voters, the voter registration applications of black voters were not processed properly, and registered voters encountered unjustified barriers to voting at their precincts. Such barriers were caused by, *inter alia*, the failure to provide a complete official list of eligible voters at each polling place, inadequate processes for verifying the registration of voters not appearing on precinct lists, and the failure to offer voters who moved within the county the opportunity to vote by affirmation or affidavit.

3. Plaintiffs contend that these practices violate the Fourteenth Amendment of the United States Constitution, Section 2 of the Voting Rights Act of 1965, codified at 42 U.S.C. §§ 1973 *et seq.*, the Civil Rights Acts of 1957 and 1960, codified at 42 U.S.C. §§ 1971(a)(1), 1971(a)(2)(A) and 1971(a)(2)(B), the National Voter Registration Act of 1993, 42 U.S.C. §§ 1973gg *et seq.*, 42 U.S.C. § 1983 and/or the Florida Voting Rights Act, Fla. Stat. Ann. § 104.0515.

JURISDICTION

4. This court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343 and 1367. Plaintiffs' action for declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201 and 2202; 42 U.S.C. § 1973gg-9(b); and by Rules 57 and 65 of the Federal Rules of Civil Procedure.

VENUE

5. Venue is proper pursuant to 28 U.S.C. § 1391(b) because Defendants DAVID C. LEAHY, Miami-Dade Elections Supervisor; MIRIAM OLIPHANT, Broward County Election Supervisor; and CHOICEPOINT, INC., doing business as DATABASE TECHNOLOGIES INC., reside in this district and the state Defendants may be found in this district.

PARTIES

A. The Plaintiffs

6. Plaintiff NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, INC. by its FLORIDA STATE CONFERENCE OF BRANCHES ("NAACP") is a non-profit civil rights organization with its headquarters in Baltimore, Maryland. The NAACP has more than 500,000 members nationwide. The Florida State Conference of Branches is comprised of approximately 77 NAACP youth councils, college chapters and adult branches throughout the State of Florida. The NAACP strives to advance the interests of its membership in every area, including the rights of its members and constituency to participate fully in the nomination and election of candidates for elective office. In furtherance of this purpose, the NAACP, through its Florida State Conference of Branches, conducts non-partisan voter registration and education and encourages its members to vote. The NAACP as an organization is aggrieved by Defendants' actions because they significantly impede the NAACP's ability effectively to fulfill its institutional purpose of advancing voter registration and voters' full participation in the electoral process.

7. Plaintiff NAACP also brings suit on behalf of its individual members in Florida, who have been aggrieved by Defendants' failure to comply with federal constitutional and federal and state statutory guarantees and provisions relating to voting and who would have standing to sue in their own right. These members' individual interests in fully participating in the electoral process are germane to the NAACP's organizational purpose, and neither the claims asserted nor the relief requested herein requires the participation of the NAACP's members in order to vindicate their individual rights. A significant number of NAACP members, who are

eligible voters and voted in the November 2000 election, reside in precincts and counties where a disproportionately large number of ballots were not counted in the Presidential election. NAACP members were also among those voters whose names were wrongfully purged from the voter registration lists, and a significant number of its membership were unable to vote or were impeded in voting on election day because of the unlawful practices complained of herein.

8. Individual named Plaintiffs are black citizens of Florida who were eligible to register and vote, who were registered voters or who took timely and appropriate steps to register as voters and who sought to vote in the November 7, 2000 general election in the State of Florida but were, as a result of the practices of Defendants complained of herein, denied the opportunity to vote, denied assistance they were entitled to, or were exposed to a significantly higher risk that their votes would not be counted in the official results for the presidential election. Plaintiffs desire to vote and participate in the electoral and political processes in Florida in the future on an equal basis with other residents, and to participate in future elections in which the rudimentary requirements of equal treatment and fundamental fairness are satisfied in voting and counting ballots in Miami-Dade County and throughout the state. The named Plaintiffs bring this action on their own behalf and as representatives for the class of all similarly situated black citizens.

9. Plaintiff JIMMIE PANNELL is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Duval County. Mr. Pannell is black.

10. Plaintiff JULIA STONER is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Duval County. Ms. Stoner is black.

11. Plaintiff NATALIE CARNEGIE is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Hillsborough County. Ms. Carnegie is black.

12. Plaintiff ERMA J. KELLY is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Miami-Dade County. Ms. Kelly is black.

13. Plaintiff JOHN L. CHEEVER is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Miami-Dade County. Mr. Cheever is black.

14. Plaintiff JAMES MARSHALL is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Miami-Dade County. Mr. Marshall is black.

15. Plaintiff LILLIE Q. ODOM is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Miami-Dade County. Ms. Odom is black.

16. Plaintiff WILLIE STEEN is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Hillsborough County. Mr. Steen is black.

17. Plaintiff WALLACE MCDONALD is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Hillsborough County. Mr. McDonald is black.

18. Plaintiff JERMAINE TERRY is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Hillsborough County. Mr. Terry is black.

19. Plaintiff LORINE WALDEN is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and of Broward County. Ms. Walden is black.

20. Plaintiff EMERY TIMBERLAKE is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and of Volusia County. Mr. Timberlake is black.

21. Plaintiff VALERIE BUFORD-WELLS is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Broward County. Ms. Buford-Wells is black.

22. Plaintiff MICHELLE FLOYD is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Leon County. Ms. Floyd is black.

23. Plaintiff CONSUELO MARIA GRAHAM is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Orange County. Ms. Graham is black.

24. Plaintiff SHERRY EDWARDS is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Hillsborough County. Ms. Edwards is black.

25. Plaintiff KANDY WELLS is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Hillsborough County. Ms. Wells is black.

26. Plaintiff JOANNA CLARK is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Broward County. Ms. Clark is black.

27. Plaintiff JANICE KELLY is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Duval County. Ms. Kelly is black.

28. Plaintiff PLACIDE DOSSOUS is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Broward County. Mr. Dossous is black.

29. Plaintiff RONDRICK ROSE is at least 18 years of age. He is a citizen of the United States and a legal resident of the State of Florida and Hillsborough County. Mr. Rose is black.

30. Plaintiff URSULA HARVEY is at least 18 years of age. She is a citizen of the United States and a legal resident of the State of Florida and Volusia County. Ms. Harvey is black.

B. Defendants

31. Defendant KATHERINE HARRIS is the Secretary of State of Florida. She is sued in her official capacity in connection with actions taken under color of state law. As Secretary of State, Defendant HARRIS is the chief election officer of the State of Florida and has responsibility for general supervision and administration of the election laws. In addition, as Secretary of State she has responsibility for the Division of Elections of Florida's Department of State. She has the responsibility to obtain and maintain uniformity in the application, operation, and interpretation of the election laws, and to provide technical assistance to the supervisors of elections on voting systems. *See* Fla. Stat. Ann. § 97.012. She is also responsible for providing uniform standards for the proper and equitable implementation of the registration laws and coordinating the state's responsibilities under the National Voter Registration Act of 1993, ("NVRA"). *Id.* She also has the duty to adopt rules which establish minimum standards for hardware and software for electronic and electromechanical voting systems, and to adopt rules to

achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures for voting, including write-in voting, and counting, tabulating, and recording votes by voting systems used in the State of Florida. *See* Fla. Stat. Ann. § 101.015.

32. Defendant CLAY ROBERTS is the Director of the Florida Division of Elections. He is sued in his official capacity in connection with actions taken under color of state law. The Division of Elections is responsible for adopting uniform rules for the purchase, use, and sale of voting equipment in the state. *See* Fla. Stat. Ann. § 101.294. In addition, the Director is responsible for the Bureau of Voting Systems Certification within the Division of Elections which by law is required to provide technical support to the county supervisors of elections and which is responsible for voting system standards and certification. *See* Fla. Stat. Ann. § 101.017. Defendant Roberts is also responsible for administration of the statewide central voter file and for contracting with a private entity to compare voter registration lists with other computer databases. *See* Fla. Stat. Ann. § 98.0975.

33. Defendant FRED DICKINSON is the Executive Director of the Florida Department of Highway Safety and Motor Vehicles ("DHSMV"). He is sued in his official capacity in connection with actions taken under color of state law. As Executive Director of DHSMV, Defendant DICKINSON is responsible for the proper and equitable implementation of his Department's responsibilities under the National Voter Registration Act and the Florida Voter Registration Act, Fla. Stat. Ann. § 97.032 *et seq.* He has the duty to ensure that the DHSMV provides all individuals with the opportunity to register to vote or to update a voter registration when they go to an office of the DHSMV to apply for or renew a driver's license; apply for or renew an identification card; or change an address on an existing driver's license. 42 U.S.C. § 1973gg-3; Fla. Stat. Ann. § 97.057(1).

34. Defendant KATHLEEN A. KEARNEY is the Secretary of the Florida Department of Children and Families (“DCF”). She is sued in her official capacity in connection with actions taken under color of state law. As Secretary of the Department, she is charged with the duty and responsibility of properly and equitably implementing the National Voter Registration Act and the Florida Voter Registration Act, Fla. Stat. Ann. § 97.032 *et seq.* She has the duty to insure that the DCF provides “each applicant the opportunity to register to vote or to update a voter registration record, at the time the applicant applies for services or assistance from that agency, for renewal of such services or assistance, or for a change of address required with respect to the services or assistance.” Fla. Stat. Ann. § 97.058(1). *See also* 42 U.S.C. 1973gg-5.

35. Defendants DAVID C. LEAHY, MIRIAM OLIPHANT, JOHN STAFFORD, PAM IORIO, ION SANCHEZ, WILLIAM COWLES, and DEANIE LOWE are the county supervisors of elections for Miami-Dade, Broward, Duval, Hillsborough, Leon, Orange, and Volusia counties, respectively. They are sued in their official capacities in connection with actions taken under color of state law. Miriam Oliphant is the successor to Jane Carroll, who was supervisor of elections in Broward County during, and for 32 years before, the November 2000 election. The county supervisors of elections are the official custodians of the voter registration books in Florida and are responsible for registering voters within their respective geographical jurisdictions. *See* Fla. Stat. Ann. § 98.015. The county supervisors of elections are required to ensure that all voter registration and list maintenance procedures which they conduct are in compliance with any applicable requirements for that county under the Voting Rights Act of 1965, and that its general registration list maintenance program is uniform, non-discriminatory and in compliance with the Voting Rights Act of 1965. *See* Fla. Stat. Ann. §§ 98.015 and 98.065. In addition, the county supervisors of elections have the duty of appointing election boards for each precinct in the county, providing forms, materials and voting equipment for use on election day, and providing training for election officials. *See* Fla. Stat. Ann. § 102.012.

36. Defendant CHOICEPOINT, INC. doing business as DATABASE TECHNOLOGIES, INC. ("DBT") is a Georgia corporation with offices in the State of Florida and, pursuant to state law, at all times relevant to the events referred to herein, acted as an agent of the State of Florida in connection with the contract between it and the State that is more fully described below. *See* Fla. Stat. Ann. § 98.0975(3)(b).

CLASS ACTION ALLEGATIONS

37. The individual plaintiffs bring this class action on their own behalf and on behalf of all others similarly situated pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure.

38. The class which plaintiffs seek to represent consists of all black citizens of the State of Florida eligible to vote, who were registered voters or who took timely and appropriate steps to register as voters, who sought to vote in the November 7, 2000 general election, and who were denied an equal opportunity to vote and have their votes counted in that election, by the actions, policies and practices of the Defendants, in violation of the Fourteenth Amendment of the United States Constitution, Section 2 of the Voting Rights Act of 1965, codified at 42 U.S.C. § 1973 *et seq.*, the Civil Rights Acts of 1957 and 1960, codified at 42 U.S.C. §§ 1971(a)(1), 1971(a)(2)(A) and 1971(a)(2)(B), 42 U.S.C. § 1983, the Florida Voting Rights Act, Fla. Stat. Ann. § 104.0515, and/or the National Voter Registration Act, 42 U.S.C. §§ 1973gg *et seq.*

39. The number of black citizens of Florida who were denied the right to vote in the November 7, 2000, election, or whose right to vote was abridged or impeded, because of Defendants' practices complained of herein, is so numerous that joinder of all members is impracticable. On information and belief, tens of thousands of ballots in counties and precincts where substantial numbers of black citizens reside were not counted in that election. On information and belief, thousands of black citizens were denied registration, wrongly purged from the voter rolls, and denied the opportunity to vote in that election. The class members are

geographically dispersed across the State of Florida.

40. There are questions of law and fact common to the class. These include whether the Defendants applied qualifications or prerequisites to voting or standards, practices or procedures in a manner that denied or abridged class members' right to vote in the November 7, 2000 general election. All members of the class were denied the opportunity to vote, to have their votes recorded and counted in an equal and non-arbitrary manner, or had their right to vote impaired by one or more of the actions of the Defendants identified herein. Additional common questions of law and fact include, but are not limited to: whether the Defendants applied a method of recording, processing and tabulating ballots that resulted in the denial of black voters' right to vote; whether the Defendants wrongfully purged registered voters from the list of eligible voters; whether the Defendants failed to allow voters who had not moved, or had moved within the same county to vote; whether the Defendants' maintenance of lists of "inactive" registered voters, separate from lists of other registered voters and not available at polling places, operated to deny or abridge registered voters' right to vote; whether disparities in equipment available at polling places with substantial numbers of black voters resulted in the denial of black voters' right to vote; and whether Defendants failed or refused to process and record timely applications for voter registration, and to distribute voter registration cards, so as to deny citizens the right to vote.

41. The claims of the representative plaintiffs are typical of the claims of the class as a whole.

42. Plaintiffs can and will fairly and adequately protect the interests of the members of the class.

43. Plaintiffs are represented by counsel who are familiar with the applicable law, including attorneys of the NAACP, the Lawyers' Committee for Civil Rights Under Law, the NAACP Legal Defense and Educational Fund, People for the American Way Foundation, the American Civil Liberties Union Foundation, the Advancement Project and Williams &

Associates. Counsel for plaintiffs have the resources necessary to pursue this litigation and are experienced in class action litigation and litigation involving civil rights.

44. Class certification pursuant to Federal Rules of Civil Procedure 23(a) and (b)(2) is warranted because the Defendants have acted or failed to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief with respect to the class as a whole.

LEGAL BACKGROUND

A. The National Voter Registration Act

45. Under Section 8 of the National Voter Registration Act, 42 U.S.C. §§ 1973gg *et seq.*, the State of Florida must maintain an accurate and current voter registration roll through uniform and non-discriminatory procedures. No voter shall be purged or removed by reason of failure to vote and no voter shall be removed except upon her/his request or death, by reason of criminal conviction or mental incapacity, or change of residence in accordance with precautionary procedures. 42 U.S.C. § 1973gg-6. Under Section 10 of the NVRA, the State of Florida is required to designate a chief state election official to be responsible for coordinating the State's responsibilities under the NVRA. 42 U.S.C. § 1973gg-8.

46. Florida law designates Defendant Harris as Florida's chief election official whose responsibilities include obtaining and maintaining uniformity in the application, operation, and interpretation of the State's election law, providing uniform standards for the proper and equitable implementation of the registration laws, and coordinating the State's responsibilities under the NVRA. Fla. Stat. Ann. § 97.012(1), (2), and (7). In addition, pursuant to state and federal law, Defendants Harris, Roberts and the Supervisors of Elections are charged with administering and maintaining the State's overall list maintenance programs and the State's central voter file. Both state and federal law establish the manner in which the voter registration information must be maintained and the circumstances in which individuals may be purged from the voter rolls.

47. The NVRA requires the Defendants to properly and timely process voter registration applications and changes of address, to timely notify applicants of the disposition of their applications, to carry out voter deletions and transfers to inactive status in a particular manner, to permit voters who have moved within the same political subdivision to vote even if they have not updated their registration to indicate their new address, and to protect registered voters from being illegally purged from existing voter registration rolls.

48. The existing laws and practices of the State of Florida violate the NVRA in significant respects, as detailed herein.

49. Plaintiffs are aggrieved persons under the NVRA. In addition to other statutory and constitutional jurisdictional bases, the Act authorizes private parties to bring a civil action in a district court for declaratory or injunctive relief against state officials acting in violation of the provisions of the Act. 42 U.S.C. § 1973gg-9(b).

50. The Act allows private citizens to give written notice “to the chief election official of the State” of a violation of the Act 90 days before filing suit in order to allow the state to cure the violation. 42 U.S.C. § 1973gg-9(b). On December 22, 2000, Plaintiffs’ attorneys notified Defendant Harris of violations of the NVRA that occurred prior to and during the conduct of the November 7, 2000, elections, and asked that the violations be corrected. (Letter from Anita Hodgkiss, Lawyers’ Committee for Civil Rights Under Law, to the Hon. Katherine Harris, December 22, 2000.)

51. Despite Defendant Harris’ role as the State’s chief elections official, in a January 5, 2001, letter in response to Plaintiffs’ notice letter, Kristi Reid Bronson, Assistant General Counsel in the Secretary of State’s Office, denied responsibility for the State’s NVRA violations, writing that “[v]oter registration, list maintenance and elections in Florida are performed at the county level. Supervisors of elections are constitutional officers. Neither the Secretary of State nor the Division of Elections has authority to dictate how constitutional officers or other agencies perform their duties.” (Letter from Bronson to Anita Hodgkiss, January 5, 2001.)

52. Ms. Bronson indicated in her letter that the Secretary of State forwarded Plaintiffs' letter to the Elections Supervisors in Hillsborough, Leon, Miami-Dade, Orange, Broward, and Volusia Counties, and to the Department of Highway Safety and Motor Vehicles ("DHSMV"). Only Volusia County responded to the letter forwarded to the county supervisors by the Secretary of State, and that county's response fails to correct the violations. In light of the Secretary of State and Division of Elections' blanket refusal to accept responsibility for the NVRA violations occurring prior to and during the November 7, 2000, elections, these NVRA claims are ripe for inclusion here.

53. Defendants' laws, policies, and practices with respect to the State of Florida's voter registration requirements and procedures for federal elections deny Plaintiffs, and others similarly situated, rights secured by the National Voter Registration Act and 42 U.S.C. § 1983. Plaintiffs are threatened with irreparable injury if the Defendants are not restrained from violating the NVRA.

B. The Florida Election Reform Act of 2001

54. Following the voting irregularities in the November 7, 2000 election, and subsequent to Plaintiffs' filing of the original Complaint in this action on January 10, 2001, the Florida State Legislature considered various proposed legislation related to the electoral process. On May 4, 2001, the Legislature passed the Florida Election Reform Act of 2001. The Act was signed into law by Governor Jeb Bush on May 10, 2001. The Florida Election Reform Act contains provisions relating to several aspects of election reform sought by Plaintiffs in this Amended Complaint, including de-certification of punch-cards as an available voting mechanism, requirements for provisional ballots, and funding for voter equipment, poll-worker training and education. S.B. 1118, 103rd Reg. Sess. (Fla. 2001).

55. While the Act thus potentially addresses some aspects of the issues raised by this Complaint, the law has not, and cannot, yet take effect. It must first be precleared by the United States Department of Justice or approved by the United States District Court for the District of Columbia pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c, and then it must be implemented effectively by both the State and the Counties. Specifically, even if the Florida Election Reform Act of 2001 is precleared, the State and County defendants must also adopt rules to govern implementation of the Act and take all other steps necessary to ensure that it is fully, uniformly and equitably implemented and enforced throughout the State.

FACTS

A. Arbitrary and Racially Disparate Adverse Impact of Electoral Systems

56. Defendant Secretary of State KATHERINE HARRIS is the head of the Department of State, which is required to examine all makes of electronic or electromechanical voting systems to determine if they comply with state law. Fla. Stat. Ann. § 101.5605. Defendant CLAY ROBERTS is the Director of the Florida Division of Elections and is responsible for adopting uniform rules for the purchase, use, and sale of voting equipment in the state and for voting system standards and certification. Pursuant to this authority, Defendants Harris and Roberts certified numerous voting systems for use in Florida, including several devices involving the use of “punch-card” ballots. Each county is authorized to select its voting method from the list of systems certified by Defendants Harris and Roberts.

57. On information and belief, Miami-Dade County, as well as 24 other counties in Florida, *i.e.*, Broward, Collier, DeSoto, Dixie, Duval, Gilchrist, Glades, Hardee, Highlands, Hillsborough, Indian River, Jefferson, Lee, Madison, Marion, Martin, Nassau, Osceola, Palm Beach, Pasco, Pinellas, Sarasota, Sumter, and Wakulla used punch-card balloting machines for voting in the November 7, 2000 election. Forty-one of Florida’s sixty-seven counties used some form of electronic voting system, and one used manually tabulated paper ballots.

58. State law requires that voting machines or systems must be capable of and must accurately register or record and count votes cast. Fla. Stat. Ann. §§ 101.28 & 101.5605.

59. The punch-card balloting systems approved by Defendants Harris and Roberts for use in the November 7, 2000 election, unlike other voting systems in use in Florida, have a substantially higher rate of error in recording, processing, and counting ballots than other mechanisms and machinery for voting used in Florida.

60. In the 2000 presidential election, the percentage of ballots recorded as having no vote (non-votes) in Florida counties using a punch-card system was 3.92%, while the error rate under the optical-scan systems in use elsewhere in Florida was only 1.43%. Thus, for every 10,000 votes cast, punch-card systems result in 250 more non-votes than optical-scan systems. Siegel v. LePore, 234 F.3d 1163, Charts C and F (11th Cir. 2000).

61. State law prohibits the use of voting systems or machines which permit the voter to cast a simultaneous ballot for two different candidates for a single office. Fla. Stat. Ann. §§ 101.28 & 101.5606.

62. Punch-card balloting systems or machines that have been approved by Defendants, unlike some other voting machines or systems in use in Florida, permit the voter to cast a simultaneous ballot for two different candidates for a single office.

63. State defendants do not have uniform standards or procedures adequate to insure that voters are made aware, prior to the completion of the ballot-casting process, that their ballots appear to contain non-votes or duplicate votes in one or more contests so that they may correct any unintended errors before their votes are tabulated, although some of the electronic voting systems approved for use by defendants incorporate this feature. It is not yet clear whether all counties will ultimately meet this requirement if the Florida Election Reform Act of 2001 is implemented.

64. Plaintiffs JIMMIE PANNELL, JULIA STONER, NATALIE CARNEGIE, ERMA J. KELLY, JOHN L. CHEEVER, JAMES MARSHALL and LILLIE Q. ODOM,

lawfully registered voters and residents of counties that used punch-card systems, who voted on November 7, 2000, faced a substantially greater risk that their votes would not accurately be recorded or counted than voters who live in counties that did not use punch-card voting systems.

65. As a result of the acts and omissions of Defendants Harris and Roberts, and their own acts and omissions, election officials in counties in Florida with substantial black populations have disproportionately selected and used punch-card balloting machines. As a consequence, Plaintiffs and other black voters are significantly less likely to have their votes counted and accurately tabulated than other voters in the state.

66. The use of punch-card voting machines or systems and procedures connected with their use have an adverse impact on black voters' opportunity to participate in the electoral process and to have their votes counted in Florida, in violation of Section 2 of the Voting Rights Act of 1965.

67. The use of punch-card voting machines or systems and procedures connected with their use in Miami-Dade County, and in the other counties in the state which use them, deprives Plaintiffs of equal protection and due process by failing to accord equal weight to each vote and equal dignity to each voter throughout the state.

68. The next statewide election in Florida is scheduled for September 2002. Subsequent to the filing of this lawsuit, the Florida State Legislature passed the Florida Election Reform Act of 2001 which contains provisions relating to decertification of the use of punch-card voting machines in Florida. However, the Act has not been precleared pursuant to Section 5 of the Voting Rights Act. Not until the new Act has been implemented can Plaintiffs determine whether their rights will continue to be violated by the use of and by procedures connected with the use of Florida's voting systems.

B. Racial Disparity in Election Administration in Miami-Dade County

69. Defendant DAVID C. LEAHY, Supervisor of Elections for Miami-Dade County, is responsible for appointing election boards for each precinct, providing forms, materials, and voting equipment for use on election day, and providing training for election officials.

70. Precincts in Miami-Dade County with substantial percentages of black voters had a significantly higher proportion of non-votes in the Presidential election than precincts in the county that are predominantly white.

71. On information and belief, the number or proportion of voters in these predominantly black precincts who intended not to cast votes in the Presidential election was not substantially higher than the number or proportion of voters in other precincts within Miami-Dade County who intended not to cast votes in the Presidential election.

72. On information and belief, the high numbers or proportions of non-votes for the office of President in predominantly black precincts resulted from practices relating to voting machines or systems and balloting procedures implemented by defendant Leahy and his staff.

73. Plaintiffs ERMA J. KELLY, JOHN L. CHEEVER, JAMES MARSHALL and LILLIE Q. ODOM are properly registered voters who reside in voting precincts in Miami-Dade County that have substantial percentages of black voters. They each voted in the general election for the office of President of the United States on November 7, 2000 but are significantly less likely to have had their votes counted and accurately tabulated than voters in predominantly white precincts in Miami-Dade County.

74. Defendant LEAHY's non-uniform methods of administering the November 7, 2000 general election denied black voters an equal opportunity to participate in the Presidential election and have their votes counted.

75. The Florida Election Reform Act of 2001 contains provisions relating to decertification of punch-card voting machines in all counties in Florida, including Miami-Dade County, and to training for poll workers regarding the operation of voting systems. However, the

Act has not been precleared pursuant to Section 5 of the Voting Rights Act. On information and belief, a new voting system has not yet been selected to replace the punch-card ballot system in Miami-Dade County. Not until the new Act has been implemented effectively, a new voting system has been selected, and the new system has been implemented in Miami-Dade County can Plaintiffs determine whether their rights will continue to be violated by the use of and by procedures connected with Defendant LEAHY's administration of the voting system in Miami-Dade County.

C. Wrongful Purging of Voters from Official Lists of Eligible Voters

76. Pursuant to state and federal law, Defendants Harris, Roberts and the Supervisors of Elections are charged with administering and maintaining the state's overall list maintenance programs and the state's central voter file. Both state and federal law establish the manner in which the voter registration information must be maintained and the circumstances in which individuals may be purged from the voter rolls.

77. Defendant Roberts contracted with Defendant DBT to compare information in the state's central voter file with information available in other computer databases and prepare a list of registered voters who were ineligible to vote. Upon information and belief, in the course of carrying out this contract, Defendant DBT wrongfully identified qualified voters as ineligible to vote and communicated that incorrect information to Defendants.

78. Upon information and belief, Defendants Harris, Roberts and DBT determined the matching and other criteria and sources of information for creating the lists of ineligible voters to be forwarded to county supervisors under Fla. Stat. Ann. § 98.0975. Upon information and belief, at the instruction of the State, Defendant DBT used matching criteria to identify ineligible voters that the State knew would result in a significant number of "false positives," that is, eligible voters who would identified as ineligible.

79. Upon information and belief, Defendants Harris, Roberts and DBT have failed to exercise appropriate diligence and care to ensure and to verify the reliability and accuracy of the list of ineligible voters that was forwarded to each county supervisor pursuant to the state list maintenance program mandated by Fla. Stat. Ann. § 98.0975.

80. Upon information and belief, prior to the November 7, 2000 general election, Defendants Harris and Roberts failed to require that all county supervisors adopt effective measures to ensure accurate purging of the names of registered voters on the lists provided by the State, and to prevent county election supervisors from purging voters without verifying the information provided in the lists. Upon information and belief, Defendants Harris and Roberts failed to ensure that county supervisors would be able to verify in a timely manner the lists of ineligible voters provided by the State, and to determine whether the information provided by the State was accurate.

81. Upon information and belief, prior to the November 7, 2000 general election, Defendant county supervisors adopted widely varying approaches to purging the names of registered voters based on the lists provided by the State. Upon information and belief, many Defendant county supervisors failed to verify at all or to verify adequately the information provided by the state, and, as a result, wrongfully purged numerous voters from their official lists of registered voters.

82. Upon information and belief, prior to the November 7, 2000 general election, Defendant county supervisors wrongly purged from the voter rolls ex-felons who had their rights restored in the states in which they committed their felonies. Upon information and belief, this practice continued after the November 7, 2000 election.

83. The NVRA requires that if a registration record incorrectly indicates that a voter has changed her residence, the voter shall be permitted to vote upon oral or written affirmation or confirmation that the voter continues to reside at the address that is within the supervisor's jurisdiction. *See* 42 U.S.C. § 1973gg-6(d). On information and belief, Defendants fail to provide

voters who have been purged wrongfully based on an alleged address change the opportunity to vote by confirming or affirming their address within the supervisor's jurisdiction upon their appearance at a polling site on election day.

84. The NVRA requires that a voter shall not be removed from the voter rolls based on change of residence unless the registrar confirms in writing that the registrant has changed residence to a place outside the registrar's jurisdiction or the registrant (i) has failed to respond to a specified notice and (ii) has not voted during a prescribed time period. Upon information and belief, Defendants routinely remove individuals from the voter rolls without following these procedures. *See Fla. Stat. Ann. § 98.045(2).*

85. Upon information and belief, Defendants Harris and Roberts have failed to provide, require, or enforce uniform standards, and have failed to provide adequate time or resources for county supervisors to verify the lists of ineligible voters that the state forwards to the counties so as to ensure that eligible voters are not wrongly purged from the official lists of registered voters.

86. Upon information and belief, Defendants' administration of the voter roll purging process required by state and federal law had a disproportionate adverse impact on black voters and resulted in a larger percentage of black voters than white voters being wrongly removed from the official lists of registered voters.

87. Plaintiff WILLIE STEEN has been a properly registered voter living in Hillsborough County, Florida since he was honorably discharged from the military in 1993. He has lived at his current address since December 1999. On November 7, 2000, Mr. Steen went to vote for the first time. When he arrived at his polling place, he was told that he could not vote because he had a felony conviction. Mr. Steen has never been arrested or convicted of any crime. Mr. Steen was improperly denied the right to vote.

88. Plaintiff WALLACE MCDONALD is a properly registered voter residing in Hillsborough County, Florida. In June 2000 he received a letter from the Hillsborough County

Supervisor of Elections informing him that he would be removed from the voter rolls because of a prior felony conviction. Mr. McDonald responded in writing, informing the Supervisor that he has not been convicted of a felony. He also engaged an attorney to search the court records in Hillsborough County. His attorney found no record of a felony conviction. Upon information and belief, although Mr. McDonald's attorney brought this to the attention of the Supervisor of Elections, the Supervisor nevertheless refused to reinstate Mr. McDonald as a registered voter. Mr. McDonald does not have a felony conviction and was improperly denied the right to vote.

89. Plaintiff JERMAINE TERRY is a properly registered voter living in Hillsborough County, Florida. On November 7, 2000, Mr. Terry was told by Hillsborough County voting officials at the polls that he had been purged from the voter roll, and he was not allowed to vote. There is no valid basis upon which Mr. Terry could have been purged from the voter rolls. On information and belief, records of the Supervisor of Elections of Hillsborough County indicated simply that he was deleted from the rolls pursuant to the National Voter Registration Act. Such deletion was not proper under state or federal law. As a result of this violation, Mr. Terry was improperly denied the right to vote.

90. Plaintiff LORINE WALDEN has been a registered voter since the 1960s. About one week prior to the November 7, 2000 general election, she went in person to check the status of her registration. The employee at the Supervisor of Elections office checked something on a computer and then informed her that she was not in the system and that she would not be allowed to vote in the general election this year. There is no valid basis upon which Ms. Walden could have been purged from the voter rolls. Because the clerk specifically informed her that she could not vote in this election, Ms. Walden did not try to vote on November 7, 2000, and was effectively and improperly denied the right to vote.

91. Plaintiff EMERY TIMBERLAKE is a properly registered voter living in Volusia County. Mr. Timberlake requested an absentee ballot for the November 7, 2000 election. He never received a ballot or any other response from the Supervisor of Elections. On November 7,

2000, Mr. Timberlake went to his polling place to vote. Mr. Timberlake gave his voter registration card and driver's license to the clerk. The clerk reviewed the voter roll and told him that he was not on it and that he could not vote. No further information or assistance was offered to Mr. Timberlake at that time. There is no valid basis upon which Mr. Timberlake could have been purged from the voter rolls. On information and belief, the Supervisor of Elections removed Mr. Timberlake from the rolls in 1999 based on an alleged duplicate registration in Alabama. Mr. Timberlake has never lived in or registered to vote in Alabama. Mr. Timberlake was improperly denied the right to vote.

92. Plaintiff URSULA HARVEY is a properly registered voter residing in Volusia County. She is a student at Bethune-Cookman College (BCC) in Daytona Beach, Florida. In or about February 1998, before she enrolled at BCC, she registered to vote in Martin County where she lived with her mother. In or about September 1998, after entering BCC and moving to Daytona Beach, Ms. Harvey registered to vote in Volusia County. On November 3, 1998, she presented her Volusia County voter registration card at Precinct 620 and was permitted to vote. She did not change her voter registration or register to vote in any other location after 1998. On November 7, 2000, Ms. Harvey went to the same polling site where she voted in 1998 and tried to vote. She presented her voter registration card and driver's license to the poll worker, but was told that she was not on the voter roll. A supervisor at the precinct made a telephone call, and while she was on the telephone, the supervisor informed Ms. Harvey that she was listed as being registered in Martin County and would have to go there to vote. Ms. Harvey explained that she had been previously registered in Martin County, but that she had changed her registration to Volusia County. Ms. Harvey was not allowed to cast a ballot. Ms. Harvey was improperly denied the right to vote.

93. The Florida Election Reform Act of 2001 contains provisions relating to provisional balloting, notification to voters prior to removal from the voter rolls, and development of a statewide voter registration database that cannot be maintained by a private entity. However, it is not clear how the new provisions of the law will operate and to what extent

the Act will address the concerns raised in this section. In addition, the Act has not been precleared pursuant to Section 5 of the Voting Rights Act and cannot yet go into effect. Finally, the Act fails to address many of the purge issues stated here and does not offer any retroactive relief for those individuals wrongfully purged from the voter rolls.

D. Failure to Timely and Correctly Process Voter Registration Applications and Change of Address Information

94. Under state and federal law, Florida residents can register to vote or update a registration in person at their county Supervisor of Elections offices or at a number of other state agencies, including the Department of Highway Safety and Motor Vehicles and social services offices, or by mailing a completed application to the Supervisors of Elections office. Fla. Stat. Ann. §§ 97.053 *et seq.* Under Florida law, a valid initial voter registration application submitted by mail and bearing a clear postmark is effective as of the date of the postmark. Fla. Stat. Ann. § 97.053(4). If there is no postmark, or if the postmark is unclear, the registration is effective as of the date of receipt, unless it is received within 5 days after the closing of the books for an election, in which case the effective date of the applicant's registration is the book-closing date.

95. The NVRA provides that "[a]ny change of address form submitted in accordance with State law for purposes of a State motor vehicle driver's license shall serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes." 42 U.S.C. § 1973gg-3(d). Thus, federal law provides that a change of address notification to the DHSMV will also serve as an address change for voter registration purposes unless the registrant declines in writing to have the information used for voter registration. Under Florida law, a driver's license examiner is required to inquire "orally" or "in writing if the applicant is hearing impaired" whether "the applicant wishes to register to vote or update a voter registration record during the completion of a driver's license or identification

card application, renewal, or change of address.” Fla. Stat. Ann. § 97.057(2)(b). If an individual declines to register or update a registration, either orally or by failing to sign the registration application, the DHSMV must keep the declination for two years. Fla. Stat. Ann. § 97.057(2)(b)2. State law does not require written declination and is inconsistent with the NVRA.

96. Upon information and belief, prior to the November 7, 2000 election, Defendant Lowe failed to notify individuals whose voter registration applications were incomplete of the status of their applications in a timely manner.

97. Upon information and belief, Defendants Harris and Roberts have failed to provide, require, or enforce uniform standards and procedures for the timely, accurate and proper processing of voter registration applications, the registration of voters, and updating of voter registrations, including changes of address. On information and belief, Defendants Dickinson and Kearney have failed to provide, require, or enforce uniform standards and procedures for the timely, accurate and proper processing of voter registration applications and updating of voter registrations, including changes of address, received by their respective Departments. On information and belief, Defendants Election Supervisors of Hillsborough, Volusia, Orange, Broward, and Duval Counties failed or refused to process many new voter registration applications that were submitted to them prior to the deadline imposed by state law.

98. Plaintiff PLACIDE DOSSOUS moved from Miami-Dade to Broward County in September 1999, and in or about July 2000 notified the Department of Highway Safety and Motor Vehicles of his new address when he changed his driver’s license. Mr. Dossous never received a new voter registration card. He did not appear on the voter roll at either of the precincts where he tried to vote on November 7, 2000, and he was not permitted to vote. Mr. Dossous was improperly denied the right to vote.

99. Plaintiff CONSUELO MARIA GRAHAM lives with her father in Orange County, Florida. In September 2000, Ms. Graham completed a voter registration application request on-line. On approximately October 3, 2000, she received a voter registration application

in the mail for her signature. She signed the application and submitted it to the Orange County Supervisor of Elections. As of October 9, 2000, she had not received a voter registration card, so Ms. Graham completed another voter registration application, which was submitted to the Supervisor of Elections on or before October 10, 2000, the deadline for voter registration for the November election. On November 7, 2000, Ms. Graham went to the polling site where her father voted in order to cast her ballot. She was told that she was not on the precinct register and she was not allowed to vote. At no time did any poll worker offer to call to inquire as to her eligibility to vote. Ms. Graham was improperly denied the right to vote on November 7, 2000.

100. Plaintiff SHERRY EDWARDS is a resident of Hillsborough County, Florida. When Ms. Edwards was at the Department of Highway Safety and Motor Vehicles office in September 2000 obtaining a Florida driver's license, she registered to vote. Ms. Edwards never received a response from the Hillsborough County Supervisor of Elections regarding her voter registration application. On November 6, 2000, she contacted the Supervisor of Elections office to inquire about where to vote. She was informed that she was not a registered voter and would not be permitted to vote in the fall general election. On November 7, 2000, Ms. Edwards went to her local polling site to vote. She was not listed on the voter roll and was not allowed to vote. Ms. Edwards was improperly denied the right to vote.

101. Plaintiff KANDY WELLS completed a voter registration application in 2000 that was personally delivered by Mrs. Wells' father to the Hillsborough County Supervisor of Elections office on October 9, 2000. Mrs. Wells did not receive a voter registration card prior to election day. She believed that her registration application had not been processed since she had not received anything from the Supervisor of Elections, and accordingly, she did not vote on November 7, 2000. On December 7, 2000, Mrs. Wells received a new voter registration card in the mail. The card indicates that it was issued on November 20, 2000. Mrs. Wells was improperly denied registration effective for the November 2000 general election.

102. Plaintiff JOANNA CLARK is a resident of Broward County, Florida who has been registered to vote in Broward County since approximately 1995. In or about October 1999, Ms. Clark moved within the County, from Pompano Beach to Fort Lauderdale. In or about April 2000, Ms. Clark completed a voter's registration change of address form at the Department of Children and Family Services Office in Broward County. Ms. Clark had not received a new voter registration card, so she submitted a voter registration change of address form approximately two weeks prior to the November 7, 2000 election. On November 7, 2000, she went to her former polling place at Pompano Beach Middle School. A precinct official informed her that she was not on the voter list. Clark indicated that she had moved to Fort Lauderdale. The official told her that she had to find somewhere in Fort Lauderdale to vote but stated that she did not know the location of her new polling place and had no way of finding out. Clark noticed her name on the voter list and pointed it out to the precinct official. The official replied that she could not allow Clark to vote because that would be considered a felony and she could have Clark arrested. Clark was improperly denied the right to vote in the November 7, 2000 general election.

103. Plaintiff JANICE KELLY is a resident of Duval County, Florida where she has been a registered voter since approximately 1994. After her initial registration in Duval County, Ms. Kelly moved to a new address within the county. When she moved, Ms. Kelly obtained a new driver's license. In 1998, Ms. Kelly went to vote at her old polling site, as she had never received information about the correct polling site based on her new address. She was permitted to vote at her old polling place and she told the poll workers there that she had moved, and provided them with her new address. Ms. Kelly never received a new voter registration card or information regarding a new polling site. On November 7, 2000, Ms. Kelly went to vote at her old polling site. There was no voting at that site and there were no signs directing voters to another location. Ms. Kelly then drove to a fire station where she had seen voters lined up earlier in the day, and there she was told that she had to go to a church down the road to vote. Ms. Kelly rushed to the church, arriving just before 7:00 p.m., but she was told that she could not

vote because the polls were closed. Ms. Kelly was improperly denied the right to vote.

104. The failure of Defendants Harris, Roberts, Dickinson, and Kearney to provide for and ensure the proper and timely processing of voter registrations and address changes and the failure of Defendants Hillsborough, Volusia, Orange, Broward, and Duval county election supervisors to properly and timely process voter registration applications and voters' change of address information submitted before the close of registration for the 2000 general election violates state and federal law and denied Plaintiffs listed above in this section the right to vote.

105. The Florida Election Reform Act of 2001 fails to address directly the problems raised in this section. These problems may be addressed in part through the Division of Election's rule-making process.

E. Improper Procedures for Change of Residence, Unequal Access to Inactive Voter List, and Failure to Provide Means of Communication with Supervisor of Elections Office

106. Defendants Harris, Roberts, Dickinson, and Kearney, and Defendants Election Supervisors in Broward, and Hillsborough Counties, among others, failed to comply with the National Voter Registration Act in conducting a program to verify changes of residence by voters and to remove voters ineligible to vote within their respective jurisdictions because of changes of residence. The manner in which registration rolls and eligible voter lists were maintained by these Defendants for the November 2000 general election denied or abridged the rights of black voters within these jurisdictions to participate in the election on the same basis as other voters.

107. Upon information and belief, qualified black voters in Florida were improperly denied the right to vote as a result of the practices complained of herein in disproportionately greater numbers than white voters, despite the fact that they were properly registered and included in the category of eligible voters according to the records of the Supervisor of Elections for their respective counties.

108. Under Defendants' address change verification and voter removal program that was in effect for the 2000 general election, certain registered voters were placed on an "inactive" list and were not included on their respective voting precincts' lists of voters on Election Day. Although such voters remained registered voters, Defendants did not require that the names of voters on the "inactive" list be kept at the polling place and they were not available at all precincts. As a result, in precincts without an "inactive" voter list, an "inactive" voter was only able to vote if an official at the polling place contacted the central county office, which in most cases could be done only by telephone, to confirm the elector's eligibility to vote.

109. Voters who had moved and who went to vote at the proper polling place based on their new address often did not appear on the voter roll. In order for these voters to vote, a poll worker had to check the central voter list, a task that typically required contact with the Supervisor of Elections office by telephone.

110. Defendants failed to provide or maintain adequate telephone capacity in Supervisors' offices. As a result, many of the telephone lines were busy for long periods of time on election day and were still busy as of 7 p.m., the poll closing time. The status of large numbers of voters who had been placed on an "inactive" list could not be verified and, consequently, these individuals were denied the right to vote. In addition, voters who appeared at their new polling sites after a move also were denied the right to vote due to the inability of poll workers to verify voter registrations.

111. Defendants' address change verification and voter removal program, as described above, and in particular the failure to maintain information about voters on an "inactive" list at polling places, effectively removed persons from the official eligible voter list in violation of state and federal law.

112. On information and belief, in Hillsborough County, ten precincts were provided with laptop computers to enable poll workers to directly access the county files of eligible voters (including voters on an "inactive" list) without having to call a central county telephone number.

On information and belief, none of the county's majority black precincts received a laptop computer.

113. On information and belief, in Miami-Dade County, laptop computers were available in eighteen precincts, but only one majority-black precinct was equipped with a laptop computer on election day to enable poll workers to directly access information concerning eligible voters (including voters on an "inactive" list).

114. This unequal access to the complete county voter roll, and specifically, to the inactive list, resulted in disproportionately greater numbers of black voters being wrongfully denied the right to vote, and effectively resulted in those voters being purged in a manner contrary to state and federal statutory provisions for voter list maintenance.

115. Plaintiff PLACIDE DOSSOUS moved from Miami-Dade to Broward County in September 1999, and in July 2000 notified the Department of Highway Safety and Motor Vehicles of his new address when he changed his drivers' license. Mr. Dossous never received a new voter registration card. On November 7, 2000, Mr. Dossous first went to his previous polling place at the Korean Presbyterian Church in Dade County in an effort to find out where he should vote. The clerk told him that he was not on the voter list. The clerk could not get through to the Supervisor of Elections because of busy phone lines and therefore provided no assistance to Mr. Dossous in determining where he should vote. Mr. Dossous returned home where he later received a telephone call from someone urging him to vote. He explained that he had already tried to vote. The caller told Mr. Dossous that she had found his name in the Sheridan Vocational School voter list, in Broward County. Mr. Dossous went to the Sheridan Vocational School, where a clerk informed him that he was not on the voter list. Mr. Dossous waited for two hours while a polling official tried to telephone the Supervisor of Elections, but never got through. Mr. Dossous finally left his name and telephone number for poll officials to call when they reached the Supervisor of Elections. He never received a call. Mr. Dossous was improperly denied the right to vote in the November 7, 2000 general election.

116. Plaintiff RONDRICK ROSE is a properly registered voter residing in Hillsborough County, Florida. In December 1999, Plaintiff Rose moved from one address to another within Hillsborough County. He changed his address with the Department of Highway Safety and Motor Vehicles and the United States Postal Service. On November 7, 2000, he went to the polling site for his new address and presented identification. Mr. Rose was not listed on the precinct register and he was instructed to complete an affirmation form, which he did, and he was then told that a poll worker would have to call to verify his eligibility to vote. On information and belief, Mr. Rose was listed in the county database as an "inactive" voter. Mr. Rose waited for approximately two hours, while a poll worker called to confirm his registration. The phone line was continuously busy and the worker was not able to get through to anyone at the Supervisor of Elections office. Mr. Rose was improperly denied the right to vote.

117. Plaintiff VALERIE BUFORD-WELLS is a properly registered voter residing in Broward County. On November 7, 2000, Ms. Buford-Wells went to her assigned precinct and presented her voter registration card and driver's license to the precinct official. The official informed her that her name was not on the list of registered voters. The precinct official tried to call the Broward County Supervisor of Elections office but the line was busy. There is no valid basis upon which Ms. Buford-Wells could have been purged from the voter rolls. Ms. Buford-Wells was improperly denied the right to vote.

118. The Florida Election Reform Act of 2001 contains provisions related to provisional ballots, which may, if effectively implemented, address some of the problems raised in this section. The problems may be addressed in part through the Division of Election's rule-making process, but it does not appear that either the statute or the rule-making will address accessibility of the full voter list in each polling place, improper procedures regarding the placement of voters in "inactive" status, or the need for better communications between the polling places and the Supervisor of Elections offices.

F. Poll Worker Error

119. Defendants Harris and Roberts, and the County Supervisors, are responsible for the administration of polling places on an election day and for the training of poll workers. Defendants and Harris failed to establish uniform training and election day procedures in regard to the November 7, 2000 election. The County Supervisors failed to provide adequate training and supervision to poll workers in regard to the November 7, 2000 election.

120. Plaintiff MICHELLE FLOYD submitted a completed voter registration application to the Leon County Supervisor of Elections around September 2000. On November 7, 2000 she went to vote at her local polling site at the Florida A&M University Grand Ballroom. Ms. Floyd was listed on the precinct register, but instead of being given a ballot, she was referred to a clerk at another table. The clerk reviewed Ms. Floyd's identification, but then told her she could not vote and she would have to call someone else. Ms. Floyd was never permitted to vote on November 7th. Shortly after the election, Ms. Floyd received her voter registration card in the mail. The card listed her registration date as September 5, 2000 and her polling site as the Grand Ballroom, where she went to vote in November. Ms. Floyd's name was in fact on the voter roll. Because the poll worker erred in telling Ms. Floyd that she was not on the voter roll and in failing to provide Ms. Floyd with further assistance in determining her eligibility to vote, Ms. Floyd was improperly denied the right to vote on November 7, 2000.

121. Plaintiff VALERIE BUFORD-WELLS is a properly registered voter residing in Broward County. On November 7, 2000, Ms. Buford-Wells went to her assigned precinct and presented her voter registration card and driver's license to the precinct official. The official informed her that her name was not on the list of registered voters. Ms. Buford-Wells was in fact on the voter roll, under her prior name of "Valerie Buford." Due to the poll worker's lack of training, Ms. Buford-Wells was improperly denied the right to vote.

122. The Florida Election Reform Act of 2001 contains provisions relating to rule-making in regard to poll worker training and an election day procedures manual to be available in

every precinct. It is unclear, however, if the rule-making will address effectively the problems raised in this section.

Equitable Relief

123. Plaintiffs have no adequate remedy at law for such deprivation of their rights, privileges and immunities.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Fourteenth Amendment Equal Protection and Due Process Clauses)

124. Plaintiffs hereby reallege and incorporate by reference paragraphs 1 through 123 above.

125. Defendants Harris and Roberts have maintained and administered non-uniform methods and practices of administering elections and counting ballots in violation of the Equal Protection and Due Process Clauses of the Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983.

SECOND CLAIM FOR RELIEF

(Section 2 of the Voting Rights Act of 1965)

126. Plaintiffs hereby reallege and incorporate by reference paragraphs 1 through 123 above.

127. Defendant Leahy's methods of administering the November 7, 2000 general election denied black voters an equal opportunity to participate in the Presidential election in violation of Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973.

128. Defendants Harris, Roberts, DBT, Leahy, Oliphant (through her predecessor Carroll), Iorio, Lowe, through their actions in failing to adopt and implement uniform standards of reliability and accuracy for voting machines or systems that may be selected or utilized by county supervisors of elections, and procedures connected with their use; in the purging of voters from official lists of eligible voters; and in their maintenance and administration of “inactive” lists and the unequal availability of access to complete voter rolls denied black voters an equal opportunity to participate in the Presidential election in violation of Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973.

THIRD CLAIM FOR RELIEF

(42 U.S.C. § 1983)

129. Plaintiffs hereby reallege and incorporate by reference paragraphs 1 through 123 above.

130. All Defendants, acting under color of state law, have deprived Plaintiffs of the rights, privileges, and immunities secured to them under the Fourteenth Amendment to the United States Constitution, the National Voter Registration Act, and 42 U.S.C. § 1983 to participate in the electoral process.

FOURTH CLAIM FOR RELIEF

(Civil Rights Acts of 1957 & 1960)

131. Plaintiffs hereby reallege and incorporate by reference paragraphs 1 through 123 above.

132. All Defendants, by their actions as described in this Complaint, have, acting under color of law, applied different standards, practices or procedures in determining whether some voters were qualified to vote than were applied to other voters within the same county who have

been found by State officials to be qualified to vote and denied individuals the right to vote because of immaterial errors and omissions in registration and ballot applications, in violation of 42 U.S.C. §§ 1971(a)(2)(A) and 1971(a)(2)(B).

FIFTH CLAIM FOR RELIEF

(Fla. Stat. § 104.0515)

133. Plaintiffs hereby reallege and incorporate by reference paragraphs 1 through 123 above.

134. Defendants, by their actions described in this Complaint, have applied prerequisites to voting, employed certain voting methods, and administered elections using standards, practices and procedures in a manner which results in denial or abridgement of the rights of citizens in Florida to vote on account of race or color in violation of Florida Statutes §104.0515.

SIXTH CLAIM FOR RELIEF

(National Voter Registration Act)

135. Plaintiffs hereby reallege and incorporate by reference paragraphs 1 through 123 above.

136. All Defendants, by their actions described in this Complaint, including failure to properly and timely process voter registration applications and changes of address, failure to timely notify applicants of the disposition of their applications, failure to carry out voter deletions and transfers to inactive status in an appropriate manner, and failure to permit voters who have moved within the same political subdivision to vote even if they have not updated their registration to indicate their new address, have acted in a manner that violates the National Voter Registration Act ("NVRA"), 42 U.S.C. § 1973gg *et seq.*

137. Pursuant to 42 U.S.C. § 1973gg-9(b), Plaintiffs notified Defendant Harris of the various violations of the NVRA that have occurred and requested that they be corrected as provided by statute. To date, Defendant Harris has failed or refused to correct the violations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for an Order:

- (1) Certifying, for the purposes of declaratory and injunctive relief, a class of all black citizens of the State of Florida eligible to vote, who were registered voters or who took timely and appropriate steps to register as voters, who sought to vote in the November 7, 2000 general election, and who were denied the opportunity to vote or were denied an equal opportunity to vote and have their votes counted in that election, by the actions, policies and practices of the Defendants, in violation of the Fourteenth Amendment of the United States Constitution, Section 2 of the Voting Rights Act of 1965, codified at 42 U.S.C. § 1973 *et seq.*, the Civil Rights Acts of 1957 and 1960, codified at 42 U.S.C. § 1971(a)(1), 1971(a)(2)(A) and 1971(a)(2)(B), 42 U.S.C. § 1983, the Florida Voting Rights Act, Fla. Stat. Ann. § 104.0515, and/or the National Voter Registration Act, 42 U.S.C. § 1973gg *et seq.*
- (2) Declaring that Defendants' use of "punch-card" voting machines or systems, other unreliable voting systems, and procedures connected with their use; failure to process timely voter registration applications; wrongful purge of qualified voters; failure to have complete and accurate voter lists at the polls and effective election day procedures; and failure to allow voters who have moved within the county to vote; caused the Plaintiffs and members of the Plaintiff class to be treated differently than similarly situated white voters, and denied them fundamental fairness and an equal opportunity to participate in the electoral process in the November 2000 general election, all in violation of the law as set forth in the claims for relief.
- (3) Declaring that Fla. Stat. Ann. §§ 97.057 and 98.045(2) are inconsistent with the

NVRA in the manner described in this Amended Complaint and are therefore invalid.

(4) Enjoining Defendants immediately to discontinue the use of prerequisites to voting, certain voting methods, and administering elections using standards, practices and procedures in a manner which results in denial or abridgement of the rights of citizens in Florida to vote on account of race or color, or in a manner that otherwise violates federal or state law, including, but not limited to, requiring Defendants to do the following:

- a. To decertify all "punch-card" voting methods and other unreliable voting methods as acceptable voting methods under Florida law;
- b. To adopt standards and implement training designed to insure that voting systems and procedures at polling places within their jurisdiction are equal, accurate and reliable, and are uniformly administered;
- c. To provide a receipt to each voter who registers to vote in person at a designated voter registration site, including a Supervisor of Elections office, a DHSMV office, or a DCF office;
- d. To process all incomplete voter registrations initially received by the book closing date for an election, if it is possible to obtain the missing information prior to the election date;
- e. For all complete voter registration applications or updated information received by the book closing date for an election, to process that information and mail to the voter a new voter registration card at least 10 days before the next scheduled election;
- f. To develop procedures that will ensure that voter registration applications are processed in a timely manner;
- g. To develop and implement procedures to ensure that all customers at Department of Highway Safety and Motor Vehicle offices have an equal opportunity to

register to vote or to update a voter registration, including, but not limited to: (i) use of combined forms for motor vehicle and voter registration application; and (ii) require written declination for customers who do not wish to register to vote at DHSMV.

- h. To develop and implement procedures to ensure that all customers at Department of Children and Families offices have an equal opportunity to register to vote and to update a voter registration, including but not limited to receipt of assistance in completing voter registration application forms.
- i. To develop and implement uniform procedures regarding list maintenance, including but not limited to the use of a standardized form for change of address confirmation mailing.
- j. To maintain any list of inactive voters at polling places as part of the official list of eligible voters and as accessible to precinct officials as are the active lists;
- k. To provide a mechanism for persons whose names do not appear on the list of registered voters at the polling place to vote in as timely a fashion as those whose names do appear on the list, subject to challenge if they are shown not to be qualified to vote
- l. To provide notice to those who vote a provisional ballot and are found not to be qualified to vote regarding the basis for the disqualification, and an opportunity to challenge their disqualification;
- m. To establish a mechanism for timely communication on an election day between the polling places and the Supervisor of Elections office, and between individual voters and the Supervisor of Elections office;
- n. To accurately determine and restore to appropriate status all persons wrongfully purged based on the DBT list and all other persons purged in violation of state and

federal law;

- o. To discontinue all voter purges of the voter registration rolls until the development of procedures to ensure uniform, non-discriminatory application of the law;
- p. To prohibit the removal of the name of any person from the official voter registration lists on account of death, felony conviction or adjudication of mental incapacity based on information that has not been verified and determined to be a correct match for that person;
- q. To complete all purges not later than 90 days before any election;
- r. To extend, by at least four years, the time that voters identified as those who may have moved, who did not vote in November 2000, remain on the inactive list before they are purged, to remedy the situation of inactive list voters who were denied the right to vote in the November 2000 election;
- s. To develop and implement training for all personnel involved in the administration of the electoral process to ensure compliance with this order and all laws related to the non-discriminatory operation of the political process;
- t. To provide equitable, accurate equipment, facilities and resources for the administration of the electoral process statewide, including, but not limited to, the technology to facilitate verification of voter registration in all polling sites; and,
- u. To affirmatively notify voters of their rights at polling places, by posted notice or otherwise, including their rights to assistance, to correct their ballots if they believe they have made an error, to alternative identification procedures if they do not have a photo identification and to vote even if they have changed address, including the steps to follow to assert these rights.

(5) Appointing, pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a, federal examiners in each of the Defendant counties for the next ten years.

(6) Retaining jurisdiction of this case, pursuant to Section 3(c) of the Voting Rights Act, 42 U.S.C. § 1973a.


(7) Awarding Plaintiffs their costs and disbursements associated with the filing and maintenance of this action, including an award of reasonable attorneys' fees pursuant to 42 U.S.C. §§ 1973l, 1973gg-9, and 1988.

(8) Awarding such other equitable and further relief as the Court deems just and proper.

DATED: July 6, 2001.

Respectfully submitted,

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Statement of Margaret Fung
Executive Director
Asian American Legal Defense and Education Fund
In Support of S. 565, Equal Access to Voting Rights Act
Senate Committee on Rules and Administration
June 2001

On behalf of the Asian American Legal Defense and Education Fund (AALDEF), we express our support for the passage of S. 565, the Equal Protection to Voting Rights Act. AALDEF, founded in 1974, promotes and protects the civil rights of Asian Americans through litigation, legal advocacy and community education. Voting rights is a major program priority, because several barriers still remain to the full and equal participation of Asian Americans in the electoral process.

Over the past decade, AALDEF has monitored elections in New York City for compliance with section 203 of the federal Voting Rights Act, which mandates bilingual ballots and assistance in three boroughs of New York City. We have filed complaints with the Justice Department under section 5 of the Voting Rights Act, challenging redistricting plans that diluted minority voting strength and a limited voting scheme that discriminated against Asian Americans in the New York City school board elections. We represented defendant-intervenor in Diaz v. Silver, 978 F. Supp. 96 (E.D.N.Y. 1997)(*per curiam*), *aff'd*, 522 U.S. 801 (1997), a constitutional challenge to New York's 12th Congressional District, and successfully argued that Asian Americans in Manhattan and Brooklyn constitute a "community of interest" that should be kept together within a single voting district. We have done the largest multilingual exit polls of Asian American voters on the East Coast, polling over 5,000 Asian Americans in the November 2000 elections. AALDEF has also conducted nonpartisan voter registration drives, especially among newly-naturalized citizens, and we have been actively involved in current and past redistricting efforts.

The voting irregularities in Florida in the November 2000 elections attracted the greatest media attention, but Asian American voters across the country also faced serious barriers in exercising their constitutional right to vote. Section 203 of the Voting Rights Act mandates the provision of bilingual ballots and assistance when 5% of a county's population or more than 10,000 voting age citizens of a single language minority are limited English proficient. Based on our election monitoring efforts and reports compiled across the country, Asian American voters did not receive the language assistance that is required by federal law. The following are some examples:

New York

As a result of a complaint filed with the Justice Department by AALDEF in 1992, New York City has established a Chinese Language Assistance Program that requires:

- fully-translated Chinese-language machine ballots, including candidates' names transliterated into Chinese;
- an adequate number of Chinese interpreters in those election districts covered by the

Voting Rights Act in New York, Kings and Queens Counties, based on Census data for Chinese Americans of limited English proficiency. In the 2000 elections, 336 Chinese interpreters were to have been placed at 150 sites, and 218 election districts (ED) at these sites were supposed to receive Chinese-language ballots.

- voter information materials, including voter registration forms, translated into Chinese. Chinese-language ballots must be provided at all EDs with a Chinese American voting age population (VAP) over 90 and in polling sites where all of the EDs together total over 90 Chinese American VAP.

In order to measure compliance with federal law, AALDEF sent election monitors to 20 polling sites throughout Manhattan, Brooklyn and Queens, where we observed the following problems:

- Inaccurate translations. The Chinese translations for "Democrat" and "Republican" were switched on the machine ballot for local races in at least six polling sites in Queens. Absentee ballots also contained mistakes in the Chinese-language instructions for selecting State Supreme Court justices—voters were given contradictory instructions in Chinese to "vote for three" and also to "vote for five;"
- Lack of Chinese interpreters. Throughout the city, particularly in Manhattan's Chinatown and Flushing, Queens, an insufficient number of Chinese interpreters contributed to long lines at polling places with large Asian American populations, with some voters leaving before casting a ballot due to the absence of language assistance. In the week before Election Day, the VOTE-NYC phone hotline set up by the Board of Elections was constantly busy. Those who waited for bilingual assistance often encountered Chinese interpreters who did not speak the proper dialects and could neither answer their questions about polling site locations nor verify their voter registration status;
- Small, hard-to-read Chinese characters on machine ballots. The very purpose of Chinese translations is undermined because the Chinese characters on the machine ballots are too small, especially for elderly voters who are often most in need of such bilingual assistance. Magnifiers in the voting booth were provided for the first time in the November 2000 elections, but most poll workers did not instruct voters about their availability or purpose.
- Poorly trained Election Day workers. Many poll workers did not know what to do with the bilingual voting materials or gave incorrect information to Asian American voters. Chinese-language signs were not posted, bilingual materials often were not displayed, and some poll workers denied Asian American voters the right to cast an affidavit ballot when their names were not found in voter registration lists. We also received reports that some Asian Americans in Queens were asked for proof of citizenship at their polling site, which was not required.

California

San Francisco

In San Francisco, there have been ongoing problems with the provision of language assistance to Chinese American voters. In the March 2000 primary elections, the Registrar mistranslated the names of two Chinese American candidates. In the

December 2000 mayoral runoff election, absentee ballot envelopes failed to include signature instructions in Chinese, resulting in hundreds of absentee ballots of Chinese American voters being invalidated. The absence of bilingual absentee ballot envelopes has been a recurring hardship for Chinese American voters in previous elections. (Eric Brazil, "Political Group Blasts City's Absentee Voter Ballots: Questions Lack of Chinese instructions," S.F. Examiner, Dec. 9, 1999, at A28.)

A report on the November 2000 elections by the Asian Law Caucus, Chinese for Affirmative Action and Employment Law Center noted several problems encountered by Chinese American voters. For example, there were no bilingual poll workers at three precincts with large concentrations of Chinese-speaking voters. In two precincts, Chinese American voters were asked to leave and come back with a bilingual friend, or to wait until a bilingual poll worker was available, rather than being directed to a bilingual telephone hotline set up by the Registrar that could provide immediate information. One poll worker thought it was illegal to have anyone other than an official elections worker provide language assistance. Some Chinese American voters, especially the elderly with poor vision, complained that the new ballot for optical scanning machines was confusing and difficult to complete. Voters were also denied the confidentiality of their vote when poll workers examined their ballots before placing them through the optical scanners.

Los Angeles

In Los Angeles County, the Registrar is required to provide language assistance and translated voting materials in Chinese, Japanese, Tagalog, Vietnamese and Spanish. Korean-language materials and interpreters are offered on a voluntary basis. While there have been substantial improvements over the past two years, resulting in a telephone hotline for voters and better poll worker recruitment, the Asian Pacific American Legal Center of Southern California found that 14 poll sites in Los Angeles County failed to display or make available bilingual voting materials in the November 2000 elections. The multilingual card with the 800 voter hotline information was not displayed at many sites, and many poll workers did not even know about this hotline.

Orange County

The Orange County Registrar provides voting materials and language assistance in Vietnamese and Spanish. According to reports from the Asian Pacific American Legal Center of Southern California, the Registrar has been making progress in its recruitment of bilingual poll workers, with 7 out of 9 sites having at least one Asian bilingual poll worker in the March 2000 elections.

However, in the November 2000 elections, a delay in the mailing of 40,000 bilingual sample ballots and absentee voter applications to Vietnamese- and Spanish-speaking voters led to numerous complaints. The *Los Angeles Times* reported that Democratic party workers "fielded 'a ton' of calls from first-time voters in the Vietnamese community." (David Reyes, "Vote Chief To Be Quizzed: County Supervisor Claims Elections Have Recurring Problems," L.A. Times, Nov. 18, 2000, at B1.) It was estimated that between 4,000 to 5,000 Vietnamese American voters may have been denied their right to vote because absentee ballots were not mailed in time. The County Registrar cited problems in Vietnamese translations and proofreading errors. (Monte Morin, "Vietnamese Voters Must Rush to Get Absentee Ballots: Printing and Translation Troubles Have Delayed Mailings of the Applications," L.A. Times, Oct. 29, 2000, at B3.)

Louisiana

In Louisiana, foreign-born citizens are required to present in person original naturalization certificates, US passports or birth certificates as proof of citizenship in order to register to vote. The Justice Department is currently investigating voter complaints in Orleans and Jefferson Parishes from Vietnamese Americans who encountered obstacles in their voter registration drives for the November 2000 elections.

Massachusetts

In Boston, Asian American voters complained that they were wrongfully turned away from the polls and told that they had only one minute to vote. Some Chinese and Vietnamese American voters waited in line for one hour, only to be told that there were no bilingual poll workers at the site to assist them. At a post-election public hearing in Braintree, MA, a representative of the Vietnamese American Voters League called for the voluntary provision of bilingual ballots to make it easier for new citizens to vote.

Michigan

Under a consent decree secured by the Justice Department in June 2000, the town of Hamtramck, Michigan was ordered to hire 55 election workers of Arab American or Bengali American descent. The federal investigation followed complaints that poll workers had questioned Arab American and Asian American voters about their citizenship at polling sites in the November 1999 elections. (Christopher M. Singer, "Hamtramck Failed to Diversify Poll Force; Justice Dept. Gives City Until Tuesday to Hire Arabs, Asians," Detroit News, Nov. 20, 2000.) Two poll workers were ultimately convicted of state election law violations, based on their harassment of minority voters in the previous year's elections. A federal examiner has been appointed to monitor elections in Hamtramck until December 31, 2003.

If we are serious about democracy, we must ensure that elections throughout the nation are run properly and in accordance with existing civil rights laws. We believe that S. 565 best addresses the particular concerns of language minority voters in the Asian American community. Any new voting technologies must be fully accessible to language minority voters, and a greater emphasis must be placed on improving voter education, poll worker training and maintaining accurate, up-to-date voter registration lists. In addition, election reforms must not impose unnecessary barriers to voting, such as the verification of citizenship, which would have discriminatory impacts on Asian American and other language minority voters. We urge the passage of election reform legislation that will reinvigorate the voting rights of all Americans and thereby encourage the full and equal participation of new citizens in the democratic process.

* * *



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American Civil Liberties Union
Statement for the Record on Election Reform and S. 565/H.R. 1170,
The Equal Protection Voting Rights Act of 2001

Hearing before the Senate Rules Committee

June 27, 2001

(Submitted July 10, 2001)

By LaShawn Warren, Legislative Counsel

The American Civil Liberties Union strongly supports the Equal Protection Voting Rights Act of 2001, a bill introduced by Senators Christopher Dodd and Tom Daschle (S.565) and Congressman John Conyers (H.R. 1170). This legislation will assist state and local governments in meeting their constitutional duty to provide equal protection for all voters.

The Voting Rights Act of 2001 is the most comprehensive response to a widespread problem that was largely hidden until last November. The objective of this legislation is to begin to provide relief to voters before the 2002 federal elections--and full equality by 2004. It will meet the three principal goals of election reform: uniformity, accuracy, and accessibility. The bill sets uniform performance standards for voting equipment, promotes accuracy by upgrading technology and allowing voters to correct any balloting errors, and ensures accessibility and convenience for all voters, including language minorities and persons with disabilities.

The new legislation will correct and prevent violations of the constitutional right of all Americans not only to vote, but also to have that vote counted fairly. The bill would establish a commission of election reform experts; immediately provide a matching grant program for states to upgrade their technology, improve voter education, and increase access to the polls; and set fully-funded uniform and nondiscriminatory national standards for election technology, provisional voting, and sample ballots.

The ACLU believes that the legal foundation for the bill is sound, and the need for the legislation could not be more compelling. In one of its most important decisions ever, the United State Supreme Court held that the vote recount procedures in Florida violated the Equal Protection Clause of the Constitution. The Court explained that "[w]hen the state legislature vests the right to vote for President in its people, the right to vote as the legislature has prescribed is fundamental; and one source of its fundamental nature lies in the *equal weight accorded to each vote and equal dignity owed to each voter.*" Bush v. Gore, 121 S. Ct. 525 (2000) (emphasis added).

Although the Court limited its decision to the recount procedures in Florida, the decision should apply wherever states fail to accord equal weight to each vote and equal dignity to each voter. Whatever one may think of the final outcome of Bush v. Gore, the Court's holding that, once a state grants "the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another" is the rule for all elections. Id.

The ACLU is working to achieve the guarantee of equal protection of all voters through both litigation and legislation. The ACLU is representing voters who have gone to court to get the states of Georgia and Illinois to replace poorly designed or defective voting machines that result in unequal and discriminatory voting. In California, the ACLU led several other civil rights groups in suing for voting technology problems. In addition, the ACLU has joined several other civil rights organizations in seeking relief in the state of Florida for similar claims, as well as other election practices that disenfranchised numerous Florida voters. The litigation has already resulted in one success; a state judge in Illinois ordered the use of improved voting technology in Cook County for a municipal election held in May.

However, effective federal legislation is the most certain and complete way to repair the nation's broken election system. Voters should not have to resort to the courts to ensure compliance with the "one person-one vote" rule. The new legislation will help all states meet the requirements that the Supreme Court outlined in Bush v. Gore.

At a time of unprecedented budget surpluses, the Congress has the opportunity to correct these constitutional problems. By passing the Equal Protection of Voting Rights Act of 2001, Congress can provide the standards and funds needed to correct a problem that threatens the very legitimacy of our democratic government.



AAPD

**AMERICAN ASSOCIATION OF
PEOPLE WITH DISABILITIES**

For Immediate Release

June 21, 2001

AAPD ANNOUNCES SUPPORT OF DODD-CONYERS ELECTION REFORM BILL

Washington, D.C. – The American Association of People with Disabilities announced today its full support of election reform legislation introduced by Congressman John Conyers (D-MI) and Senator Christopher Dodd (D-CT), H.R. 1170 and S.565.

Jim Dickson, Vice-President for Governmental Affairs of the American Association of People with Disabilities called H.R. 1170 and S. 565, "The only election reform legislation to fully address the needs of the more than 35 million voting aged citizens with disabilities." People with disabilities are the nation's largest disenfranchised minority. Nearly 50,000 of the nation's 120,000 polling places are physically inaccessible. In addition most of the nation's voting systems do not offer a secret and independent ballot to voters who are blind, have low vision or cannot hold a pen. The Dodd-Conyers legislation mandates that by November 2004 polling sites across the country be 100% physically accessible and voting systems offer a secret, independent and verifiable ballot to all voters, regardless of their disability.

"I am blind, Dickson said, "and have never cast a secret ballot. There are more than 10 million Americans like me who leave the polling place wondering if the person who marked their ballot marked it the way they wanted. This legislation will make it possible for the 21 million Americans with disabilities who did not vote to access the polling place.

AAPD was founded in 1995 to promote political and economic empowerment for children and adults with disabilities in the U.S. With more than 25,000 individual members and a growing number of organizational members, AAPD brings together people with all different kinds of disabilities and chronic health conditions, their family members and supporters to provide tangible benefits like prescription drug discounts and an online career center and to advocate for the goals of the Americans with Disabilities Act--full participation, equality of opportunity, independent living, and economic self-sufficiency. To join AAPD or find out more about AAPD projects and activities, visit www.aapd-dc.org or call 800 840-8844.

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AFSCME NEWS

For Immediate Release
Thursday, June 21, 2001

For More Information, Contact:
Cheryl Kelly or Daniel Kaufman at
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Statement
by
AFSCME President Gerald W. McEntee
In Support of
The Equal Protection of Voting Rights Act

Washington, D.C. — The American Federation of State, County and Municipal Employees, AFL-CIO and its 1.3 million members fully support the Equal Protection of Voting Rights Act of 2001, H.R. 1170 and S. 565, introduced by Representative John Conyers (D-MI) and Senator Christopher Dodd (D-CT).

Last November's presidential election revealed a serious problem in our nation's voting system. Voters across the country reported being denied their basic rights to cast a free vote and to have that vote counted. Allegations of faulty voting equipment, confusing ballots, erroneous registration records, ill-equipped polling personnel, roadblocks and outright intimidation at the polls were being reported at an alarming rate.

A recent report issued by the U.S. Commission found that while only 11% of Florida's voters were African-American, 54% of the votes that were not counted were from African-American communities. The Equal Protection of Voting Rights Act will require states to use a uniform and non-discriminatory statewide standard for voting machines beginning in the year 2004. This provision of the legislation seeks to eliminate the use of outdated machinery and punch card balloting. The Act would allow states to use "provisional voting" to prevent the preclusion of voters who can later show they were properly registered and improperly denied the opportunity to vote. This section of the bill seeks to address the problem of voters who were improperly denied the right to vote in the 2000 elections.

The late Congresswoman Barbara Jordan of Texas once said "What people want is simple. They want an America as good as its promise." The 1965 Voting Rights Act prohibited voting qualifications or procedures that would deny or interfere with a person's right to vote because of race or color — that was America's promise. Unfortunately, it was a promise broken on Election Day and the 36 days that followed.

The right to vote is a fundamental right of all Americans and AFSCME supports efforts to eliminate barriers to this right. AFSCME joins forces with the AFL-CIO, civil rights organizations and other national advocacy organizations in a renewed commitment on the part of the government to ensure that every citizen has the right to vote and that every vote counts.

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Press Release

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General Board of Church and Society Supports Dodd-Conyers Election Reform Legislation

FOR IMMEDIATE RELEASE

June 21, 2001

Contact: Ken Fealing (202) 488-5637

The General Board of Church and Society (GBCS) of The United Methodist Church today announces its full support for national comprehensive and fundamental election reform contained in the Equal Protection of Voting Rights Act, introduced by Senator Christopher Dodd (D-CT), S. 565 and Representative John Conyers (D-MI), H.R. 1170.

The Dodd and Conyers matching bills provide comprehensive responses to fixing the problems in our nation's election system. They will help accomplish the goal of strengthening our democracy by requiring states to meet new federally funded mandates. First, the bills would require states to adopt uniform and non-discriminatory state-wide standards for voting machines and voting procedures by 2004. Second, states would have to mail sample ballots and voting instructions to all eligible voters 10 days before an election. Lastly, states would be required to offer "provisional balloting" which would allow disqualified voters to cast ballots that would be counted only if they later proved they had been improperly excluded from the voter rolls.

"Comprehensive election reform is necessary to take back our democracy," said Jim Winkler, General Secretary, GBCS. "The November 2000 presidential election, which ended in a protracted court fight, exposed the nation's electoral system as discriminatory, technically unreliable and full of inconsistent local standards. These glaring problems resulted in the outright disenfranchisement of tens of thousands of Americans, mostly minority voters, in Florida and throughout the country. In response to these problems, the General Board of Church and Society strongly supports the Equal Protection of Voting Rights Act."

The GBCS supports the Dodd-Conyers legislation because it is compatible with the Church's position on voting stated in the Basic Freedoms and Human Rights section of the Social Principles of The United Methodist Church. The Church holds "governments responsible for the protection of the rights of the people to free and fair elections... The form and the leaders of all governments should be determined by exercise of the right to vote guaranteed to all adult citizens."

Legal scholars agree with the Church's principles. States and counties have operated and paid for the elections of federal officeholders since our nation's founding. However, legal scholars say Congress has several sources of authority within the United States Constitution to determine how federal elections are run.

More

GBCS Supports Dodd-Conyers Legislation
Page Two

The Dodd-Conyers election reform legislation establishes a new bipartisan Commission on Voting Rights and Procedures. This commission would report to the President and Congress on ways to improve the accessibility of ballots and polling places to voters with disabilities, voter registration and voter maintenance, voter education, election personnel training, ballot design and other election issues.

Both bills avoid creating an unfunded federal mandate by fully funding the implementation of the required state standards and procedures. The legislation provides federal matching grants to states that submit comprehensive voting plans that include uniform, nondiscriminatory, state-wide voting standards. The federal funding would help states purchase voting equipment, implement new election administration procedures, educate voters, train election personnel and implement the recommendations of the Commission on Voting Rights and Procedures.

The General Board of Church and Society commends Senator Dodd and Representative Conyers for their courage and foresight in sponsoring the bills and looks forward to working with them to achieve final passage of this important legislation.

###

Only The United Methodist Church General Conference speaks for the entire denomination. The General Board of Church and Society is the international social witness and advocacy agency of the United Methodist Church, charged by General Conference to "conduct a program of research, education and action on the wide range of issues that confront the church. It shall speak its convictions, interpretations and concerns to the church and to the world." (Paragraph 1004, 2000 Book of Discipline)

UCP Endorses Equal Protection of Voting Rights Bill

Release Date: June 21, 2001



Washington, DC – UCP (United Cerebral Palsy Associations), one of the nation's largest non-profit disability organizations, is calling for the swift passage of the "Equal Protection of Voting Rights Act" by the U.S. Congress (S. 565/HR 1170). In keeping with the Supreme Court's ruling in *Bush v. Gore*, the Senate bill would require States to adopt uniform and non-discriminatory statewide election standards, including procedures guaranteeing greater access to the polls for voters with disabilities. The new Senate Majority Leader, Tom Daschle (D-SD), along with the bill's chief sponsors Senator Christopher Dodd (D-CT), new Chair of the Senate Rules Committee, and Representative John Conyers (D-MI), Ranking Member of the House Judiciary Committee, announced their strong intentions to push for the bill's enactment at a Capitol Hill press conference on June 21, 2001.

"While there are many electoral reform measures before Congress," explains Kirsten A. Nyrop, the UCP Executive Director, "UCP is part of a growing coalition of disability, women's rights and civil rights groups supporting the Dodd-Conyers bill, because it is the only one that will guarantee access to the polls and a secret ballot for all voters, including those with disabilities."

In its investigation of voting irregularities during last November's elections in Florida, the U.S. Civil Rights Commission found that: "...Countless voters in Florida with special needs were denied their right to vote due to

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20036-5602

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inaccessible precincts and ballots. Voters with disabilities who rely on wheelchairs were forced to negotiate steps and unreachable polling booths or undergo tremendous humiliation by relying on others to lift them into the polling places to exercise their right to vote. Others who did not have these options were simply turned away, which denied these voters their right to participate fully in the political process."

Such barriers to voting and the full participation of Americans with disabilities in our political process are by no means unique to Florida or last November's Presidential election. According to the National Council on Disability (NCD), statistics show that among 35 million voting-aged citizens with disabilities:

- 14 million people of voting age who have a disability are unregistered
- people with disabilities vote at a rate 11 percent lower than the general population
- 81 percent of voters who are blind or visually impaired rely on others to mark their ballots, despite the availability and affordability of voting machines that permit such individuals to cast a secret ballot
- an estimated 20,000 of the nation's 170,000 polling places are inaccessible to voters who use wheelchairs.

A recent Harris poll reported an increase in the number of people with disabilities voting in the recent Presidential election. But, according to the National Organization on Disability (NOD), if people with



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disabilities voted at the same rate as the general population, there would have been 3.5 million more votes cast last November.

For additional information, contact: Bob Williams, Judy Chesser or Brian Rasmussen, 800-872-5827.

(Data cited in this press release is from material compiled by the National Organization on Disability, Louis Harris Poll/Harris Interactive, and Paralyzed Veterans of America in testimony to the National Council on Disability on March 7, 2001, based on the 1999 Report of the National Voter Independence Project.)



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PRESS RELEASE

NAAA - ADC ENDORSES ELECTION REFORM LEGISLATION

For Immediate Release
June 26, 2001

Contact:
Khalil Jahshan
(202)-244-2990

NAAA-ADC, the government affairs arm of the American-Arab Anti-Discrimination Committee (ADC) strongly supports election reform legislation introduced by Representative John Conyers, Jr. (D-MI) and Senator Christopher Dodd (D-CT) in the U.S. Congress.

As an organization essentially focused on civil and human rights, NAAA-ADC has been deeply concerned about the denial of the basic right of millions of American citizens to participate freely and have their vote counted in American elections. NAAA-ADC President Khalil E. Jahshan stated that "it is utterly shocking at this day and age to see so many people of color disenfranchised in the United States. All those committed to basic civil rights must come together to put an end to this senseless erosion of democracy."

H.R. 1170 and S. 565 basically call for the establishment of a "Commission on Voting Rights and Procedures" to study and make recommendations to the President and Congress regarding elections technology, voting and election administration on a uniform basis throughout the country. The bills also establish a grant program to provide equal protection of voting rights at the state and local levels.

**RELIGIOUS ACTION CENTER
OF REFORM JUDAISM**

FOR IMMEDIATE RELEASE
Contact: Alexis Rice or Mike Silver
(202) 387-2800

**REFORM JEWISH LEADERS CALL FOR PASSAGE OF
MEANINGFUL ELECTION REFORM LEGISLATION**

"Free and fair elections are a cornerstone of our nation's democracy, yet it is easy to forget how frequently in our history the right to vote has been denied to certain citizens."

*The Religious Action Center
pursues social justice and
religious liberty by
mobilizing the American
Jewish community and
serving as its advocate
in the nation's capital*

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*Rabbi David Saperstein
Director and Counsel*

*Mark J. Peltin
Associate Director*

*David S. Davidson
Chair
Commission on Social Action
of Reform Judaism*

*Rabbi Daniel Polish
Director
Commission on Social Action
of Reform Judaism*

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with its affiliates:
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of Cantors
ARZAWORLD LIAISON
North America
National Association of
Temple Educators
North American Federation of
Temple Brotherhoods
Union of
Reform Judaism, and
North American Federation
of Temple Youth*

WASHINGTON, June 21, 2001 – In conjunction with a Capitol Hill press conference on election reform legislation in the 107th Congress, Rabbi David Saperstein, Director of the Religious Action Center of Reform Judaism, and David S. Davidson, Chair of the Commission on Social Action of Reform Judaism, wrote to all Members of Congress requesting their support for the Equal Protection of Voting Rights Act of 2001, sponsored by Senator Christopher Dodd (D-CT) and John Conyers, Jr. (D-MI).

The complete text of their letter follows:

On behalf of the Commission on Social Action of Reform Judaism, the public policy arm of North America's largest organized Jewish community, we write in support of the Equal Protection of Voting Rights Act of 2001 (S. 565/H.R. 1170), sponsored by Senator Christopher Dodd (D-CT) and Representative John Conyers, Jr. (D-MI).

The 2000 presidential election exposed numerous flaws in our nation's election procedures. To address these problems, lawmakers on both sides of the aisle have proposed legislative remedies, and we believe S. 565/H.R. 1170 is the most comprehensive of the current election reform proposals. The legislation would require that all voting machines for federal, state and local elections meet the same high performance standard by the year 2004. Each voter would have the right to receive a sample ballot before going to the polls, correct errors before his or her ballot is cast and counted, and access a provisional ballot if his or her registration status is in question on election day. The bill would also provide for enhanced resources for voter education and poll worker training; establish standards for the use of bilingual ballots; and call on states to examine voter intimidation, real or perceived, so as to ensure compliance with the Voting Rights Act of 1965.

Jewish tradition teaches us that the process of choosing leaders is not a privilege, but a collective responsibility. The Sage Hillel taught *"Al tifros min hatzibur*, Do not separate yourself from the community" (Pirke Avot 2:5). This tradition, combined with our community's history of promoting civil rights and voting rights for all Americans, compels us to redouble our efforts to increase voter registration and participation, and ensure the franchise is protected for all citizens.

(over)

Free and fair elections are a cornerstone of our nation's democracy, yet it is easy to forget how frequently in our history the right to vote has been denied to certain citizens. All Americans wishing to vote must be given a meaningful opportunity to do so, and all votes determined to be valid in accordance with established fair standards must be counted accordingly. Congress can enhance protection of these fundamental rights through enactment of meaningful electoral reforms. Thus, we strongly endorse S. 565/H.R. 1170 and urge you to ensure its passage this Congress.

Respectfully,

/s/
 Rabbi David Saperstein
 Co-Director,
 Commission on Social Action of Reform Judaism;
 Director,
 Religious Action Center

/s/
 David S. Davidson
 Chair,
 Commission on Social Action of Reform Judaism

The Religious Action Center of Reform Judaism is the Washington office of the Union of American Hebrew Congregations (UAHC), whose 900 congregations across North America encompass 1.5 million Reform Jews, and the Central Conference of American Rabbis (CCAR), whose membership includes over 1700 Reform rabbis.



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WWW.NAPALC.ORG

NATIONAL ASIAN PACIFIC AMERICAN LEGAL CONSORTIUM
PRESS RELEASE

FOR IMMEDIATE RELEASE
Friday, June 22, 2001

CONTACT: Sharon Scanlon
202-296-2300

NAPALC Supports H.R. 1170 As Step Towards Voting Rights Reform

Washington, D.C.- The National Asian Pacific American Legal Consortium (NAPALC), along with its Affiliates—the Asian American Legal Defense and Education Fund (AALDEF), the Asian Law Caucus (ALC), and the Asian Pacific American Legal Center (APALC)—joined major civil rights, labor, disability and religious organizations in support of Senator Dodd (D-CT) and Representative Conyers' (D-MI) bill, H.R. 1170, the "Equal Protection of Voting Rights Act." The comprehensive bill addresses the problems that voters across the nation experienced in the November 2000 elections.

The U.S. Commission on Civil Rights recently released a draft report on the 2000 election in Florida. Among the many findings, the Commission found that many individuals with limited English proficiency were not able to vote because election officials refused to provide bilingual ballots or offer language assistance.

"Providing language assistance at the polls, technology to aid limited English proficient individuals, and proper voter education about the election process are necessary to ensuring that all Americans exercise their right to vote," said Karen K. Narasaki, President and Executive Director of NAPALC. "We call upon the President and Congress to support H.R. 1170 as a bipartisan effort to address the voting barriers in our nation."

Margaret Fung, AALDEF's Executive Director, said, "Incorrect ballot translations, hostile pollworkers, and an inadequate number of Chinese interpreters in the November 2000 elections prevented many Asian Americans in New York City from exercising their right to vote. The Dodd-Conyers bill will help to eliminate voter discrimination."

"H.R. 1170 is an important step in creating a comprehensive voting rights reform. This is the only bill that establishes uniform statewide voting procedures, and it contains important language requiring poll worker training, a voter bill of rights, and utilization of provisional ballot," said Stewart Kwok, Executive Director of APALC.

"As our community continues to grow, the need for bilingual assistance is vitally important in ensuring that all Asian Pacific American citizens can fully participate in our democracy," said Zenobia Lai, ALC's Executive Director. "We applaud Senator Dodd and Representative Conyers for sponsoring this bill."

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The National Asian Pacific American Legal Consortium (www.napalc.org) is a National Civil Rights Organization dedicated to advancing and defending the civil rights of Asian Pacific Americans. The Asian Law Caucus (www.asianlawcaucus.org) of San Francisco is the oldest Asian Pacific American legal group in the nation. The Asian American Legal Defense and Education Fund (www.aaldef.org) is the first organization on the east coast dedicated to promoting the legal rights of Asian Americans. The Asian Pacific American Legal Center (www.apalc.org) is the only organization in Southern California dedicated to providing the Asian Pacific American community with multilingual, culturally sensitive legal services and civic education.

AFFILIATES
Los Angeles
Asian Pacific American
Legal Center

New York
Asian American Legal
Defense & Education Fund

San Francisco



July 19, 2001

Dear Senator or Representative

We the undersigned members of the Consortium for Citizens with Disabilities (CCD) are writing to endorse and call for the swift enactment of the Equal Protection of Voting Rights Act of 2001 (S. 565/HR 1170).

CCD joins with a growing coalition of disability, women and civil rights groups supporting the immediate passage of this critical legislation. There are many bills in Congress aimed at improving one or more features of our nation's electoral processes. But, CCD believes S 565/HR 1170 will best guarantee access to the polls and a secret ballot to all voters including those with disabilities in all future Federal elections. For it to take effect for the 2004 election, however, this bill must be acted on immediately. We thank those in Congress who have cosponsored this legislation thus far and encourage all others to do so.

The voting irregularities in last November's election revealed a sobering truth: the voting systems we have relied on for so long to elect our local and national leaders are antiquated and badly flawed. They deny many -- especially minority voters, older Americans and voters with disabilities -- their most fundamental civil rights--the right to vote. The U.S. Civil Rights Commission recently issues a draft report on the vote count in Florida which found:

(C)ountless voters in Florida with special needs were denied their right to vote due to inaccessible precincts and ballots. Voters ... who rely on wheelchairs were forced to negotiate steps and unreachable polling booths or undergo tremendous humiliation by relying on others to lift them into the polling places to exercise their right to vote. Others who did not have these options were simply turned away (and) denied their right to participate fully in the political process.

Tragically, such barriers to voting and the active participation of Americans with disabilities in our political process are by no means unique to Florida or last November's presidential election.

Taken together, the Voting Accessibility for the Elderly and Handicapped Act, the voters' assistance provisions of the Voting Rights Act and the ADA as well as numerous State voter laws, already require that polling places and balloting procedures be accessible to voters with disabilities. But these laws are not uniformly enforced and people with disabilities continue to face discrimination in voting. Nationwide surveys conducted over the past few years by the National Organization on Disability, Harris Interactive and others reveal that:

* Of the 35 million voting-aged citizens with disabilities over a third or 14 million of them are unregistered to vote.

* 81 percent of voters who are visually impaired must rely on others to mark their ballots, despite the affordability of voting systems enabling them to cast ballots independently and in secret.

* At least 14% of the nation's polling places are inaccessible to voters who use wheelchairs.

These conditions can and must be remedied through the passage and effective enforcement of mandatory Federal voting rights legislation guaranteeing uniform and nondiscriminatory access to the nation's polls for all Americans.

Furthermore, CCD requests that following changes be made to the bill as it moves through the legislative process

- Clarify the mandatory standards are to be established by the ACCESS Board
- Funds are made available for education and outreach to disenfranchised voters
-

Nothing is more central to righting this historic wrong than guaranteeing that all Americans have equal access to the polls by the time of the 2004 general elections. As we approach the 11th Anniversary of the Americans with Disabilities Act, we call on all Members of the Senate and House to pass this legislation and make American democracy accessible to every voter.

Please do not hesitate to call on us if we can be of assistance or try to answer any questions you or your staff may have regarding our support for this legislation. To do so, please contact Jim Dickson at the American Association of People with Disabilities (phone: 202-955-6114; e-mail: Curt@napas.org or Bob Williams at United Cerebral Palsy Associations (phone: 202-776-0406; e-mail: bwilliams@ucp.org).

Thank you for your consideration of our views.

United Cerebral Palsy Association
CPA
National Organization on Disability
American Association on Mental Retardation
American Association of People with Disabilities
National Association of Protection and Advocacy Systems
Easter Seals
National Association of Developmental Disabilities Council
Learning Disabilities Association
The Council on Quality and Leadership in Supports for People with Disabilities

National Industries for the Severely Handicapped
 The ARC
 National Council on for Community Behavioral Healthcare
 Center on Disability and Health
 Heumann & Associates
 The American Diabetes Association
 Paralyzed Veterans of America
 Association for Persons in Supported Employment
 Council for Learning Disabilities



INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA - UAW

STEPHEN P. YOKICH, President

RUBEN BURKS, Secretary-Treasurer

VICE PRESIDENTS

ELIZABETH BLAIN • RON GETTELFINGER • NATE GOODEN • BOB KING • RICHARD SHCEMAKER

IN REPLY REFER TO
1757 N STREET, N.W.
WASHINGTON, D.C. 20038
TELEPHONE: (202) 828-8800
FAX: (202) 293-3437

May 1, 2001

Dear Senator/Representative:

Representative Conyers (D-Mich.) and Senator Dodd (D-Conn.) have introduced the "Equal Protection of Voting Rights Act of 2001" (H.R. 1170; S. 565), which is designed to reform the procedures and systems for voting in federal elections. The UAW strongly urges you to cosponsor and support this critically-important legislation.

This voting reform legislation would:

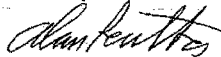
- Require states to adopt uniform and non-discriminatory state-wide standards for election machinery by 2004. These standards must require that all voting machines allow voters to verify their votes before tabulation, notify voters of over-votes and under-votes, provide an auditable record and be accessible to voters with disabilities, language minorities and other voters with special needs.
- Require states to allow "provisional voting" (i.e. voting subject to challenge) to prevent the preclusion of voters who can later show they were properly registered and improperly denied the opportunity to vote.
- Require states to send all voters a sample ballot together with instructions 10 days prior to election day, along with a notification of their voting rights under federal and state law.

The legislation also establishes a federal grant program to provide funding for states that want to implement voting reforms early enough for the 2002 elections. And it establishes a Commission to study voting machinery and best practices to assure that all Americans have the opportunity to vote.

The Conyers-Dodd bill is by far the strongest voting reform measure introduced in Congress. Unlike other proposals that simply provide for a Commission to study the issue, the Conyers-Dodd bill would require the states to implement the specific necessary reforms listed above.

The UAW believes it is imperative that the procedures and systems for voting be improved so that all Americans will have the opportunity to vote and to have their votes counted. Accordingly, the UAW strongly urges you to cosponsor and support the Conyers-Dodd election reform bill, H.R. 1170 and S. 565.

Sincerely,



Alan Reuther
Legislative Director

AR:cw
opeiu494
(949)


ORGANIZATION OF CHINESE AMERICANS, INC.

EMBRACING THE HOPES AND ASPIRATIONS OF CHINESE AND ASIAN AMERICANS IN THE UNITED STATES
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For Immediate Release

June 21, 2001

Contact: Giles Li 202-223-5500

OCA SUPPORTS ELECTION REFORM BILL

Washington, DC – The Organization of Chinese Americans (OCA) actively endorses S. 565/H.R. 1170, also called the Equal Protection of Voting Rights Act, drafted by Senator Christopher Dodd (D-CT) and Representative John Conyers (D-MI).

The Dodd-Conyers bill outlines procedures that include ensuring the availability of accurate translations to be included for those with limited English proficiency. Furthermore, the integrity of the bill's provisions is protected by outlined punishments for noncompliance within the piece of legislation. Most importantly, the bill calls for a nationalized and uniform system of voting procedures so that all Americans have an equal opportunity to have their votes counted.

Census 2000 data show the Asian Pacific American (APA) population grew by at least 46 percent since 1990 to make up over 4 percent of the population. Considering the rapid growth of the APA population, it is clear our nation must improve electoral access for those with limited English proficiency. According to the Census Bureau, 55.6 percent of APAs did not speak English "very well" in 1990; 34.4 percent were linguistically isolated.

"The importance of accurate translations was plainly evident last year in the Chinatown of Lower Manhattan in New York," stated Christine Chen, OCA Executive Director. "Poorly translated ballots led to the nullification of many Chinese American votes in the New York State Supreme Court elections; the instructions said to vote for five candidates when voters were only supposed to choose three. This piece of legislation would prove crucial in promoting political equality by creating equal and fair voting procedures to all eligible voters."

"Countless people in America's underserved communities – including the Asian Pacific American community – were denied the right to have their vote counted for a variety of reasons during the last election," said George M. Ong, OCA National President. "Some voters experienced harassment at the hands of election officials; others had their ballots invalidated due to mistakes caused by confusing ballot layouts or inaccurate translations. It is imperative that election reform take place immediately so our nation can be a true democracy, with respect for every individual voice."

- 30 -

The Organization of Chinese Americans, a national civil rights organization with 82 chapters and affiliates across the country, was founded in 1973 to ensure the civil rights of the Asian Pacific American community. It maintains its headquarters in Washington, D.C.



Buyers Up • Congress Watch • Critical Mass • Health Research Group • Litigation Group
Joan Claybrook, President

July 9, 2001

Dear Representative:

On behalf of Public Citizen's 150,000 members, we urge you to co-sponsor and support the Dodd-Conyers bill for election reform (H.R.1170): The Equal Protection for Voting Rights Act of 2001. Alongside campaign finance reform, there is no greater priority for Congress and American democracy this year than passing election reform.

The controversy over the presidential election in Florida revealed serious flaws in the voting process throughout our nation. These problems go far beyond the well-publicized defects in punchcard and other voting machines. They also include inaccurate voter registration rolls, ill-trained and ill-coordinated election workers, inadequate voter education, lack of private and independent access to the polls by the disabled and those with limited English proficiency, and a general lack of sensitivity to the racial and ethnic impact of voting system breakdowns.

We endorse the Dodd-Conyers bill because it contains the most complete and adequate response to these problems of all the proposals currently before Congress. This can be best understood by comparing it to its main competitor in the Senate, the McConnell-Schumer bill, S. 953. As the attached side-by-side comparison shows, both bills provide for:

- an in-depth study of the issues;
- a permanent administrative agency
- a federal grant-in-aid program for states and localities to improve voting machines, provide more accurate and secure registration systems, allow provisional voting for those asserting their eligibility, expand poll worker training and voter education programs, and provide equal access for the disabled and those with English language deficiencies.

However, Dodd-Conyers is superior in that it also:

- imposes minimum requirements for voting systems, provisional voting and sample ballots by the 2004 federal election regardless of whether a state or locality has entered the grant program;
- requires state election reform plans, including timetables and opportunities for public review, as conditions for grant aid;

Ralph Nader, Founder

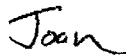
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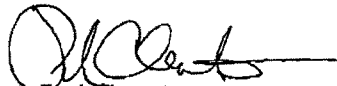
- authorizes unlimited funds for the critical first five years; and
- gives the study commission more time as befits the complexity of the problems: one year as opposed to six months in McConnell-Schumer.

It is urgent that Congress pass election reform legislation this year so that there will be time to start improving the process before the 2002 election. The credibility of our democracy will be very much at stake next year. We urge you to join the 109 Representatives and 50 Senators who have already endorsed the Dodd-Conyers bill, and thereby act to expedite congressional action.

Sincerely,



Joan Claybrook
President



Frank Clements
Director, Congress Watch



Justice and Witness Ministries

A Covenanted Ministry of the United Church of Christ

Bernice Powell Jackson, Executive Minister

July 2001

United Church of Christ Justice and Witness Ministries Calls for Comprehensive Election Reform

The Collegium of Officers

John H. Thomas
Office of General Ministries

Edith A. Guffey
Office of General Ministries

Bernice Powell Jackson
Justice and Witness Ministries

José A. Malayang
Local Church Ministries

Dale L. Bishop
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The United Church of Christ Justice and Witness Ministries, a Covenanted Ministry of the United Church of Christ, joins with a broad range of civil rights and faith groups calling for a comprehensive response to problems of voter intimidation, and technical and procedural barriers which surfaced across the country in the November 2000 elections and supports fundamental, national election reform such as that contained in the Equal Protection of Voting Rights Act of 2001 (S. 565/H.R. 1170), introduced by Senator Christopher Dodd (D-CT) and Representative John Conyers (D-MI).

"There is much work to do not only in Florida but across the nation if we are truly to have complete and comprehensive voting reforms. The voting machines and recount procedures are only the tip of the iceberg when it comes to the disenfranchisement of voters in the election last fall," noted UCC Justice and Witness Ministries Executive Minister Dr. Bernice Powell Jackson. "There were many, many stories of voters of color mistakenly being purged from voting lists as felons, voters who were not allowed to vote with provisional ballots until it could be ascertained whether they were registered, voters whose polling place had been changed without notification, and voters whose polling sites had inadequate or broken machines," she added.

Dr. Jackson pointed to the Equal Protection of Voting Rights Act as a significant part of a fundamental national response needed to the voter disenfranchisement that occurred last November: "The attention of the American public is often short-lived, and as we get further from the November election debacle, some members of Congress seem to be putting real election reform on the back burner," she warned, adding, "The Dodd/Conyers Equal Protection of Voting Rights Act of 2001 would make meaningful changes in our elections by addressing the need for reliable voting machines. But it would also provide training of all poll workers, ensure that voting procedures are the same throughout the state, launch an aggressive voter education initiative so that voters would know their rights, establish a uniform standard for using provisional ballots when a voter's registration status is questioned on election day, enhance the integrity of absentee ballots, and establish clear standards for bilingual ballots for language minority and accessibility for disabled voters."

Referring to the recent report of the U.S. Commission on Civil Rights, which concluded that voting technology reforms alone will not address the scope of issues preventing qualified voters from participating in the presidential election, Dr. Jackson stated, "the entire nation must address the massive disenfranchisement of African American and Latino/a voters which occurred not only in Florida, but in Tennessee and many other states. Voting is the most sacred element in a democracy. What happened in November

can never be allowed to happen again.”

The United Church of Christ General Synod has consistently echoed the importance of responsible, thoughtful, faithful participation in the public sphere, including voter empowerment and education efforts. Support of fundamental election reform in 2001 is in keeping with that historic witness.

Noting that the right to vote is the right upon which hang all other rights we have as citizens of the United States of America, Dr. Jackson recalled the sacrifices made by many Americans so that all Americans might vote. “Fannie Lou Hamer, John Lewis and thousands of others were beaten and imprisoned for it. Michael Schwerner, James Chaney, Andrew Goodman, Vernon Dahmer, Medger Evers, Jonathan Daniels and others died for it. The right to vote is the most precious right of all. If we do not work at increasing the participation of all Americans in the electoral process, we will begin to lose credibility around the world as we push other nations to embrace democracy. We cannot call on others to become democratic if we ourselves are not fully so,” she said.

The United Church of Christ Justice and Witness Ministries, together with other denominations and church-related organizations, is planning a series of meetings and discussions around voting rights in 2002 in an effort to mobilize church members across the nation for the 2002 elections. Details of this important initiative are in the planning stages.



For Immediate Release
June 19, 2001

Contact: Colleen Freeman
202-624-1728

Statement by William McNary
President of USAction

"We hold these truths to be self-evident that all men are created equal..."

Last November, millions of Americans were denied equal access to the electoral process. The 107th Congress now has a great opportunity to regain the public's confidence in our nation's electoral system and policy makers by enacting the comprehensive **Equal Protection of Voting Rights Act**, S. 565 introduced by Senator Christopher Dodd and H.R. 1170 introduced by Congressman John Conyers.

The right of every American to vote and to have his or her vote counted is a cornerstone of our democracy.

Our nation's policy makers must now take a bold step and enact comprehensive reforms to ensure that in future elections, all Americans will be able to cast their ballot and have the confidence that each and every vote has been counted.

USAction proudly supports the comprehensive Dodd-Conyers Voting Rights Act because it addresses the vast array of voting irregularities that occurred in the last election and provides for meaningful and appropriate measures to ensure the following:

- That all people, including ethnic and racial minorities, the disabled and overseas citizens, will be ensured a non-discriminatory right to vote.
- The modernization of equipment and implementation of uniform voting procedures state-wide.
- The execution of state-wide voter education initiatives.
- The establishment of clear standards for bilingual ballots for language minorities and the disabled.
- The requirement that each state re-examine and simplify voter re-enfranchisement laws and to give serious consideration to voter intimidation to make certain that they are in full compliance of the Voting Rights Act of 1965.
- Last, Dodd-Conyers makes provisions for adequate funding so all reforms can be realized.

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NAACP NEWS

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Julian Bond
Chairman, Board of Directors

FOR IMMEDIATE RELEASE

June 21, 2001

NAACP STRONGLY SUPPORTS DODD-CONYERS ELECTION REFORM LEGISLATION

Calls it a comprehensive response to a national tragedy

Washington, D.C. -- The National Association for the Advancement of Colored People (NAACP) today reaffirmed its full support to election reform legislation introduced by Congressman John Conyers (D-MI) and Senator Christopher Dodd (D-CT), H.R. 1170 and S. 565.

"H.R. 1170 and S. 565 are a comprehensive response to the problems that surfaced throughout the country in the November 2000 elections," said Mr. Hilary O. Shelton, the Director of the NAACP Washington Bureau. "We are convinced that millions of voters were denied their basic right to cast a free vote and to have that vote counted in the last election. We need to do all we can right now to see to it that this never happens again."

Mr. Shelton went on to cite the multitude of people from across the nation who have come forward with problems that they faced when trying to vote last November. "People have come to us with testimony, affidavits and reports of voter fraud, voter intimidation and technical and procedural barriers that resulted in ballots not being cast or counted," said Mr. Shelton.

Mr. Shelton went on to say that many of the voting irregularities occurred disproportionately in communities of color, "so it was ethnic minority Americans who were, in disparate numbers, excluded from having our voices heard. The election appears to have been conducted in such a manner that many communities throughout this nation now believe unequivocally that it was unfair, illegal, immoral and undemocratic."

More... PF

Mr. Shelton went on to point out that many of the NAACP's findings were substantiated by the report recently issued by the U.S. Commission on Civil Rights. "The Commission's report showed that while only 11% of the Florida voters were African American, 54% of the votes that were not ultimately counted were from African American communities," said Mr. Shelton. "While the Commission only looked at the situation in Florida, we believe that the Commission's report is indicative of problems throughout the United States."

In response to these problems, the NAACP, working with Congressman Conyers and Senator Dodd, as well as other civil and voting rights organizations across the country, identified 12 major areas of concern. In his statement today Director Shelton detailed these 12 areas and stressed that only by adopting a comprehensive package of voting reforms will we be able to say that we have done all we can to make sure that our democracy is working.

Mr. Shelton summed up the proposals by stressing the need for incentives for early compliance and, most importantly, the need for a national standard. "Like most things that challenge our gift of freedom, we must work hard to ensure that our democratic system retains its integrity. We must be sure that all voters are treated fairly and uniformly, and that everyone knows that his or her vote is being counted and taken seriously. Furthermore, it is important that we act now, so as to quickly start to restore the confidence in the electoral process that was lost for many in this nation."

Founded in 1909, The National Association for the Advancement of Colored People (NAACP) is the nation's oldest and largest civil rights organization. Its half-million adult and youth members throughout the United States and the world are the premier advocates for civil rights in their communities, conducting voter mobilization and monitoring equal opportunity in the public and private sectors.

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Organizational Co-sponsors of the
“EQUAL PROTECTION OF VOTING RIGHTS ACT”
S. 565 / Senator Christopher Dodd (D-CT)
H.R. 1170 / Congressman John Conyers (D-MI)

(in alphabetical order)

AFL-CIO	National Asian Pacific American Legal Consortium
A. Phillip Randolph Institute	National Association for the Advancement of Colored People
African American Women's Clergy Association	NAACP Legal Defense & Education Fund, Inc.
Alpha Kappa Alpha Sorority, Inc.	National Association of Developmental Disabilities Council
American Association of People with Disabilities	National Association of Protection and Advocacy Systems
American Association on Mental Retardation	National Coalition on Black Civic Participation
American-Arab Anti-Discrimination Committee	National Congress of American Indians
American Civil Liberties Union	National Council for Community Behavioral Healthcare
The American Diabetes Association	National Council of La Raza
American Ethical Union	National Industries for the Severely Handicapped
American Federation of State, County & Municipal Employees (AFSCME)	National Organization for Women
Americans for Democratic Action	National Organization on Disability
The ARC of the United States	Ocean State Action
Association for Persons in Supported Employment	Oregon Action
Bazelon Center for Mental Health Law	Organization of Chinese Americans
Center for Constitutional Rights	Paralyzed Veterans of America
Center on Disabilities and Health	People for the American Way
Church Women United	Presbyterian Church, USA
Citizen Action of New York	Public Citizen
Council for Learning Disabilities	The Rabbinical Assembly
The Council on Quality and Leadership in Support for People with Disabilities	Unitarian Universalist Association of Congregations
Demos	United Auto Workers
Easter Seals	United Cerebral Palsy Association
Equal Partners in Faith	United Church of Christ / Justice and Witness Ministries
Hadassah, the Women's Zionist Organization of America	United Methodist General Board of Church and Society
Heumann and Associates	US Action
Jewish Council for Public Affairs	Wisconsin Citizen Action
Jewish Labor Committee	Women for Reform Judaism
Lawyers Committee for Civil Rights Under Law	
Leadership Conference on Civil Rights	
Learning Disabilities Association	

Updated: 7/27/01

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS



815 SIXTEENTH STREET, N.W.
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JOHN J. SWEENEY
PRESIDENT

RICHARD L. TRUMKA
SECRETARY-TREASURER

LINDA CHAVEZ-THOMPSON
EXECUTIVE VICE-PRESIDENT

LEGISLATIVE ALERT!

(202) 637-5090

April 24, 2001

Dear Representative:

The AFL-CIO strongly urges you to support fundamental election reform by cosponsoring H.R. 1170, the Equal Protection of Voting Rights Act, introduced by Rep. Conyers.

Last Election Day, countless citizens in Florida and throughout the country were denied their Constitutional right to vote by flawed voting equipment, erroneous voter registration records, and confusing ballots. While many lawfully registered voters were disenfranchised outright, others cast votes that ultimately were not counted. Now that the 2000 elections are over, we have a responsibility to use what we learned from this bitter experience to strengthen our democracy through fundamental election reform.

H.R. 1170 would help accomplish this goal by requiring states to meet three new federally funded election mandates by 2004. First, this legislation would require states to adopt uniform, non-discriminatory standards for voting technology that would allow all voters to verify their votes before casting them. Second, it would require states to allow "provisional voting" in order to protect the rights of individuals who are registered to vote, but whose names do not appear on voter registration lists on election day. Finally, this legislation would require states to send all eligible voters a sample ballot with instructions 10 days prior to elections along with a notification of their voting rights under federal and state law and the appropriate federal and state agencies to contact if they believe those rights have been violated.

H.R. 1170 would also help improve our nation's election system by establishing a new, bipartisan Commission on Voting Rights and Procedures. This Commission would report to the President and Congress on ways to improve the accessibility of ballots and polling places; voter registration and the maintenance of voter records; voter education; election personnel training; ballot design; and other election-related issues.

Finally, H.R. 1170 would provide federal matching grants to states that submit comprehensive plans which include uniform, nondiscriminatory, state-wide voting standards which meet the three new federally funded election mandates and guarantee the equal protection of voting rights of all citizens within their state. These federal funds would help states purchase voting equipment, implement new election administration procedures, educate voters, train election personnel, and implement any of the Commission on Voting Rights and Procedures' recommendations. In order to encourage states to meet these requirements by the 2002 elections, this legislation would provide additional federal funds to states which submit applications by March 2002.

For all of these reasons, we strongly urge you to cosponsor H.R. 1170.

Sincerely,

William Samuel, Director
DEPARTMENT OF LEGISLATION



**Statement of Ralph G. Neas, President, People For the American Way
Senate Rules Committee Hearing on Election Reform
June 27, 2001**

The 500,000 members and supporters of People For the American Way (PFAW) are dedicated to protecting constitutional and civil rights, improving public education, and promoting civic participation. We are vitally concerned with protecting the right of all Americans to cast a vote that counts in every election.

Accordingly, PFAW strongly supports the Equal Protection of Voting Rights Act of 2001, now known as the "Dodd/Conyers" bill. PFAW believes that this legislation stands alone in its comprehensiveness addressing the many voting irregularities that disenfranchised Americans in the 2000 election. We commend the leadership and vision of both Senator Christopher J. Dodd and Rep. John Conyers on this issue, and applaud their commitment to ensure that every American's fundamental right to vote is effectively enforced and protected. We also commend the legislation's co-sponsors, and urge that every member of the Senate and House co-sponsor this common sense piece of legislation. Voting rights are civil rights.

We believe that this legislation can remedy many of the technical problems as well as the problems of voter intimidation, voter suppression, and voter disenfranchisement that clearly still exist more than three decades after enactment of the original Voting Rights Act of 1965.

The tumultuous election in last November highlights the need to strengthen the enforcement of the 1965 Voting Rights Act and improve the way every voter's ballot is cast and counted. Today, this Committee will hear from the Chair of the United States Civil Rights Commission regarding the Commission's study of the November 2000 election. PFAW has also been involved along with other civil rights organizations in issues arising from that election. PFAW Foundation and these other groups sued the Florida Secretary of State and Florida Division of Elections Director on behalf of the Florida NAACP and individual African-American and Haitian-American voters in Florida. One of the things we learned is that working families – in particular communities of color, immigrants, people with disabilities and older Americans – are disproportionately disenfranchised by the failure of voting systems in violation of the Voting Rights Act, the United States Constitution, and other Federal and state law.

We especially support provisions in the Dodd/Conyers bill that require states to adopt uniform and non-discriminatory statewide standards for election machinery by 2004. This requirement will not only belatedly end the outdated use of punch-card balloting, which has been so problematic, but will ensure that states use a consistently

optimal level of technology that will protect voters from being disenfranchised by faulty machinery.

We also strongly support parts of the bill that require states in federal elections to allow "provisional voting," and also parts that require states to send all voters a sample ballot together with instructions 10 days prior to election day along with a notification of their voting rights under federal and state law and of the appropriate federal and state agencies to contact if they believe those rights have been violated.

Finally, we strongly support the bill's "early bird" program for states that want to start election reform early enough for the 2002 elections. In order to qualify for federal funding under this grant program, a state must adopt a state-wide program for uniform and non-discriminatory election machinery and procedures, adopt additional guarantees against wrongful purges and ensure access for voters with disabilities, language minorities, and overseas military voters.

Some have suggested that despite the problems experienced in the last election, there is no real interest among legislators in pursuing election reform. We fervently believe that this is not the case. This hearing, as well as tomorrow's hearing, are important demonstrations to the contrary. It is past time for the federal government and many state governments to take action on election reform. We strongly urge the Congress to enact the Dodd/Conyers bill, and we strongly urge the President to sign the legislation into law.

6/27/01

1007

Senate Rules Committee

Election Reform Legislation

Written Statement of William F. Welsh II –Chairman

Election Systems & Software

Members of the Senate Rules Committee, staff and guests, my name is William F. Welsh II – Chairman of Elections Systems & Software, with 7 major locations in the U.S. and its headquarters in Omaha, NE. We are a privately held company whose business is solely the conduct of elections, primarily binding Governmental elections in 49 of the 50 States. Our origins trace back 35 years in this industry and the company is the largest supplier of election automation solutions to State and local government with almost 1600 of the 3146 Counties and almost 60% of the registered voters utilizing our systems. With over 400 full time employees we provide a comprehensive solutions package that includes Optical Scanning systems, Direct Recording Electronic systems (DRE), Election Management Software and Voter Registration Software solutions for local jurisdictions and statewide systems. Additionally, we provide extensive support services including election support, training, ballot services, election programming services, maintenance services and full service election management.

I would like to take this opportunity to thank the Senate for seriously examining this issue to determine what role it should play in the area of Election Reform as a result of our collective frustration over the November 2000 General Election problems and the chaos it caused our Country. We don't have to accept what happened in 2000 as being the best that we can do. State and local government election officials know exactly what to do to avoid the kinds of issues that the Presidential race brought to the surface and we, as suppliers to the industry know as well. The fundamental truth in our industry is that funds for modern election technology have not had a high priority. When you look at making capital investments in modern election technology for elections that may occur only several times a year, it just does not resonate at the State and local level. When looking at budgeting priorities, local officials often have to make tough decisions that often leave election modernization at the bottom of the budgeting pile. In those situations, Road Graders and Snow Plows will win every time. The largest impediment to modern election systems is **time and money** not technology.

Since the November election there have been many nationwide calls to overhaul our electoral processes. There seems to be a national consensus that something needs to be done, but yet little has occurred. With the exception of the recent Florida action to replace all their punch card systems for the 2002 Congressional Mid-Term Election cycle, there has been little enacted legislation at the State or Federal level. Despite the rhetoric that promises potential Federal or State funding to help local jurisdictions, there has been no definitive action. The predictable result has been to defer the decision making process at the local jurisdiction level, until a definitive answer to what type of funding might be available, when it might be available and what qualifications do we

have to meet. One of the questions that many have posed is, "Is the voting machine industry capable of replacing outdated machines by the 2002 election or the 2004 election." The question has some definitional dimension to it, but the general answer I would give you today is "No" and "No". **Time is our enemy** and currently we are wasting a tremendous amount of time in dialog and too little implementing. Many local jurisdictions are waiting to see the answers to these questions before committing and the result is a compression of time to implement any significant changes for 2002 and 2004. All of the attention focused on this issue has peaked the interest of many companies who have never been involved in the business of providing technology solutions and services to State and local government. Many of them are still in the process of trying to develop their solutions and have naively assumed that simply by throwing money and people at the problem that they can successfully respond to the challenge. Unfortunately, they are wrong, and many are now beginning to realize the magnitude of the challenge.

To change out all of the punch card systems, if that is the objective, is a huge task. Our market statistics indicate that there are 599 Counties with a total of 55,832 precincts and 40,968,613 registered voters utilizing punch card systems currently. If all of them were to convert to precinct base optical scanning systems it would require 55,832 precinct counters to be produced or if they were all to be converted to touch screen DRE's (Direct Recording Electronic) it would require approximately 275,000 units. To put these numbers in perspective, in the industries best years of sales we might see 10,000 precinct counters sold and DRE's would not be much more. If you were to extrapolate those numbers out it would take 6+ years at best, if we used historical industry sales rates for optical scan and 27+ years for DRE's. That is history however, there is no question in my mind that manufacturing capacity could be easily scaled up to dramatically lower them time to get equipment. But we run into another capacity constraint that is not so easily solved, that is the ability to properly implement the new technologies.

The implementation of these newer technologies is people resource dependent. Each of the current industry suppliers has some full time trained staff to aid the local jurisdictions in the implementation phase of an upgrade and even work alongside county officials through the first several elections, but not on the scale we are talking about. To do this job well requires people resources that possess a considerable knowledge of elections and processes particular to each State and its laws. The conversions of the old systems and software to newer technologies, training of County staff, voter education processes, poll worker training is a human resource intensive process and one that has to be done well or you will end up no better off than you were before you started the process. Finding those resources, with a good background in elections, is not an easy task and will be the largest hurdle for the industry to successfully address. How this would impact the time to convert the existing punch card users is almost impossible to quantify, but as I indicated earlier we could make the machines, but we are concerned about how to create adequately trained human resources with the skill sets required in a very short time.

The current hardware and software certification process is a vast improvement on how the industry tried to regulate itself before 1994. The NASED (National Association of State Election Directors) program of third party, independent certification laboratories, using the FEC guidelines is working well as far as it goes. This is now a prerequisite in most States, before you can get State certification. I believe that there needs to be additional resources added to speed the process, which can take many months, and I also believe their needs to be more downstream enforcement of product versions that were certified by NASED. Funding from the Federal level, which virtually none exists today, would help in this area. States have not been able to fund much of anything in this effort and the manufacturers already pay handsomely to run the tests, any help from the Federal level would be a real shot in the arm for this much needed program. There have been suggestions that any legislation coming out of Washington most likely would contain an element of a Federal certification process, possibly by some new Federal agency created by the legislation. Our experience with the startup of the NASED process was painful. It took over a year to agree on the test protocols and at least another year for the "Independent Testing Authorities" to move up the learning curve so that the process was smooth and sustainable. I would venture a similar experience with any new certifying authority, regardless of who it might be. The real issue is do we stop the entire upgrading process while this takes place and the attendant backlog of testing that would create? I don't think that would be acceptable to our customer base or us. I doubt that the election vendors that exist today would survive the resultant additional "freezing" of the market and would make an already difficult business even less sustainable.

If there is to be Federal oversight of the certification process, we would suggest that it be done by collaborating with those that are currently up to speed and already have a backlog of work in front of them. I am suggesting that a Federal agency be involved in setting the standards for certification, be involved with and approve the "Independent Testing Authorities", participate in the funding of some of the administrative overhead. In this way, all of the hard work and benefits of what has been already accomplished is not lost, (the NASED certification process), we would not freeze the market and over time the impact of Federal input to the process could be phased in. To us it would seem to be the most effective and prudent course to take. Of Course, most of the States will still do their own testing to make sure the hardware and software conform to State election laws and requirements.

One major area we have been asked to address is how can the Federal Government best position itself to work with state and local officials as they contemplate their agenda for election reform? The answer is **MONEY**. Money not only for election system upgrades, but also directed at training and education. Our suggestion is some form a grant program that provides some matching funds to States and local jurisdictions that is simple and easy to administer. Any grants should also allow the use of these funds for education and training purposes as well as equipment purchases. The funds should require accountability, but should not contain burdensome mandates or unwieldy strings attached. Our estimates for upgrading the technologies employed currently to voter friendly effective election systems is somewhere between \$2 to \$3.5 Billion, depending

upon the technologies selected and providing enough funds to implement effective education and training programs. Remember **"time is our enemy"**, anything that could potentially hinder the upgrade process will slow the upgrading progress. Another consideration we would recommend is do not penalize those jurisdictions that aggressively have moved ahead and committed funds to start their upgrade process after the November 2000 election. They should not be excluded from the process just because they had the will to move forward in the absence of any matching funding being defined or available. To prevent the market from being "frozen" for the 12 to 18 months it will take for Federal legislation and funding to be made available, we would respectfully suggest that something similar to this language be included in any Election Reform Bill.

"States and local jurisdictions who purchase systems after January 1, 2001 will be eligible to apply for grants retroactively from the Election Reform Bills passing, so long as the tabulation systems and software systems purchased, leased or contracted for through professional service contracts, are certified with NASED (National Association of State Election Directors) and comply with the individual States certification requirements. The jurisdiction must also meet all of other requirements of the grants qualification provisions in order to be Considered."

In conclusion, the election industry has developed the solutions to the election woes of 2000 and they have been available for many years. Even newer technologies and solutions have been developed that will provide every voter the opportunity to get their candidate and issue choices as they intended them to be in a manner that is not intrusive or challenging. The issue for all of us involved in the electoral process, vendors, public officials, election staff and workers has been the political will to address problem and funding to make it happen. Federal incentives to address these much needed election reforms can and will be the spark that will bring all of us a more credible election process. Thank you for allowing this testimony and for doing something about Election Reform.

1011

From the office of:

Fourteenth District, Michigan

Congressman John Conyers, Jr.



Ranking Member, House Judiciary Committee

Dean of the Congressional Black Caucus

For Immediate Release:
June 21, 2001

CONTACT: Ted Kalo or Michone Johnson
202-225-6906

**STATEMENT OF JOHN CONYERS, JR.
ROLL OUT OF "EQUAL PROTECTION OF VOTING RIGHTS ACT"
JUNE 21, 2001**

We are here today to send a simple message: real and comprehensive election reform is alive and kicking.

The Senate is moving and Chairman Sensenbrenner and I are near agreement in our discussions about the scope of House Judiciary Committee election reform hearings.

So now the Senate and House will face a powerful choice:

On the one hand, we have proposals that, for the first time in our nation's history, would allow states to opt out of voting rights legislation, to opt out of providing fundamental guarantees that every vote cast will be counted.

One bad apple state, like Florida in the 2000 elections, could continue to reserve the most disenfranchising procedures for minority voters by simply refusing to cash a federal check.

One state could, once again, send an entire federal election to a screeching halt.

When it comes to election reform, opt out is a cop out.

On the other hand, we have comprehensive election reform that would provide minimal guarantees to every voter, black or white, poor or rich, old or young. Every individual with a disability should be allowed to vote with privacy and independence. This should not be optional.

No voter should be wrongly denied his or her right to vote because of a haphazard felony voter purge. The right to cast a provisional ballot. That should not be optional.

We're back to make sure that Florida never happens again. So, I say to Members on both sides of the aisle, don't opt out. Don't cop out. Pass real election reform legislation.

#107-52#

Chris Dodd

U.S. SENATOR FROM CONNECTICUT



FOR IMMEDIATE RELEASE
June 21, 2001

Contact: Marvin Fast
(202) 224-0346

STATEMENT OF SENATOR CHRIS DODD ON ELECTION REFORM

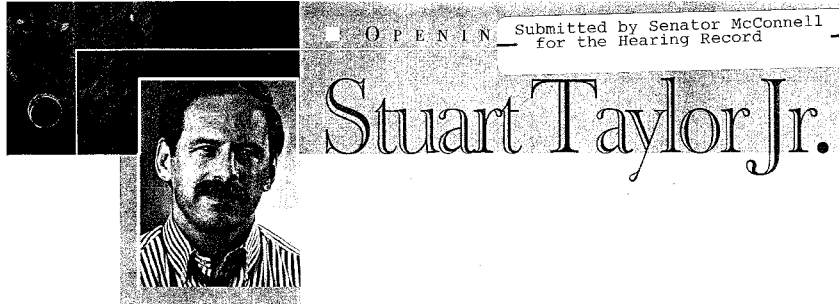
"We stand before you today united in our commitment to see election reform legislation enacted before the end of this year to ensure that no eligible American will be denied the right to cast a vote, or have his or her vote counted. No one should be sent to a figurative 'back of the bus' when it comes to voting. Clearly we need to repair the system that failed millions of Americans last fall, and ensure that all Americans, regardless of physical disability, race, language minority, or other circumstances, can participate in this democracy by exercising his or her right to vote.

"The right to vote is a fundamental cornerstone of our democracy; indeed, it is the very foundation upon which our democracy is built. But sadly, last fall, that cornerstone was chipped and badly broken when millions of Americans were either ignored, disregarded or shut out of the democratic process. We are not here to lay blame, but to unite in our commitment to fix the system and ensure the franchise for all eligible Americans.

"As an author of legislation, coauthored in the House by Representative John Conyers, D-Mich., to fix the problems of the last election, I pledge as the new Chairman of the Rules Committee to move expeditiously to hold hearings, both here in Washington and across the nation, mark-up a bill, and lead the floor fight to enact meaningful election reform this year.

"Throughout our history Democracy has placed certain inescapable demands on our shoulders. In 1954, the Supreme Court did not rule that states could desegregate schools, but that they must. In 1964, the Congress of the United States did not say that states could provide equal access to restaurants, public restrooms and other public accommodations, but that they must do so. In 1965, the Congress did not say that states could eliminate the poll tax or the literacy test, but that they must do so. And in 1990, the Congress did not say that businesses and other public accommodations could accommodate the disabled, but that they must accommodate the disabled. And 2001, it will not be sufficient to suggest that the states might reform their election systems, but that they must.

"I am committed to working in a bipartisan fashion as the new chairman of the Rules Committee, on this critically important issue, to ensure that the cornerstone of our democracy is once again solid and strong."



FINDING RACIAL BIAS WHERE THERE WAS NONE

It started right after the election. The indispensable Jesse Jackson muttered about "a pattern of irregularities and intimidation" in Florida in which "African-American voters were substantially targeted." By December 8, he was claiming that the Bush brothers had "stolen" the election by "schemes of disenfranchisement." Other "leaders" were not far behind. "Police checkpoints were set up in and around polling places to intimidate black men," imagined NAACP Chairman Kweisi Mfume, adding, "it was all part of some grand conspiracy" to keep blacks from the polls. "There was a systematic disenfranchisement of people of color and poor people," hallucinated Donna Brazile, Al Gore's campaign manager. Gov. Jeb Bush of Florida and others put up police roadblocks to stop blacks from voting and "tampered with the results in Florida," oozed Democratic National Committee Chairman (and Clinton moneyman) Terry McAuliffe.

These were all, at best, recklessly false exercises in racial demagoguery. There was never any credible evidence for any of them. But the charges have had a big effect. Amplified in the media, this disinformation campaign has left a great many African-Americans in Florida and elsewhere believing that they were deliberately "disenfranchised" last year. In reality, the 13 percent of Florida's registered voters who are black succeeded in casting a disproportionately large (15 percent) share of the nearly 6 million ballots there last year, and the black vote soared to 65 percent above the 1996 total. Rarely have so many been so dishonestly inveigled into so utterly unfounded a sense of victimization.

Now comes the U.S. Commission on Civil Rights—whose Clinton-appointed chairwoman, Mary Frances Berry, runs it as a propaganda mill for the victimology wing of the Democratic Party—with a relentlessly partisan 200-page "staff report" that was leaked this week and which will be discussed at the June 8 meeting of the eight

commissioners. It catalogs every complaint that could be cadged from the unhappiest Democrats who could be found as evidence of "disenfranchisement" falling "most squarely on persons of color"; implies that there were massive violations of the Voting Rights Act by Jeb Bush and others; and calls for a Justice Department investigation.

While trashing Gov. Bush and the hapless Katherine Harris (Florida's elected Secretary of State) as disenfranchisers for failing to run a perfect election, the report glosses over the inconvenient facts that, under Florida law, Bush has virtually no authority over the voting process, and the Secretary of State's role is mainly to provide nonbinding advice to local officials. The report also ignores the fact that the local officials who run the process and are thus directly responsible for most of the problems detailed in the report—bureaucratic errors, poorly designed ballots, jammed phone lines, and other inefficiencies that caused long delays and unfortunately prevented an unknown number of voters from casting ballots—are mostly Democrats.

There were plenty of problems in Florida. Their combined effect was to block perhaps one-tenth of 1 percent of all those who went to the polls from casting votes at all. They also contributed to the confusion of the disproportionately black 2.9 percent of voters who spoiled their presidential ballots by punching or marking them erroneously. Indeed, the somewhat confusing "butterfly ballot" in Palm Beach County (designed by a Democratic official), combined with voter error, probably cost Vice President Gore some 6,000 votes—more than enough to overcome George W. Bush's 537-vote margin.

But all of that has been known for many months. The most important (but least emphasized) revelation in this error-littered report is that Berry's investigators have been unable to find even a shred of evidence that anyone deliberately disenfranchised a single eligible voter.

OPENING ARCHIVES

Consider the post-election clamor about "roadblocks" and police "intimidation." All that's left of it is a pathetic four-page passage fatuously faulting the Florida Highway Patrol for conducting a single, routine vehicle checkpoint "within a few miles of a polling place in a predominantly African-American neighborhood," and preposterously suggesting that the occasional presence of troopers "in and around polling places [was] arguably in direct violation of Florida law."

But while the report stresses the complaint of one Roberta Tucker that she felt "intimidated" and "like it was sort of discriminatory" when stopped by white officers at this checkpoint while on her way to vote, the vast majority of the drivers stopped were white. Tucker acknowledged that the troopers let her proceed after briefly inspecting her driver's license. And according to un rebutted testimony, the only reason why any troopers visited any polling places was to vote.

The report does detail one widely reported episode of gross insensitivity to voting rights that led foreseeably to the erroneous disenfranchisement of "countless" people: State officials implemented a badly written 1998 anti-fraud law in a way that contributed to the purging from the rolls of eligible voters.

The 1998 law was designed to remove ineligible felons (and dead people) from the rolls. But in their zeal to ensure that no ineligible felon go unpurged, officials in Harris's office, with input from the staff director of the state clemency board (which Bush heads), urged an overinclusive approach that led local officials to remove 1,104 eligible voters—108 from the rolls who were not felons at all, and 996 whose civil rights had been restored by other states after they had served their sentences for felony convictions there. (These numbers come from an analysis in *The Palm Beach Post*, which discredits other media reports that "thousands" of people were wrongly disenfranchised.)

THERE'S NOT
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A SINGLE ELIGIBLE VOTER.

Forty-four percent of these people (and 49 percent of all Florida felons) were black. This racial disparity is, as the report stresses, troubling. But the roughly 500 African-American voters wrongly disenfranchised by the felon purge come to less than one one-thousandth of the 954,000 registered black voters in Florida.

Might these 500 and the rest of the 1,104 wrongly purged voters nonetheless have swung the election to Gore had they been able to vote? Possible, but doubtful. Assuming a relatively high 68 percent turnout in this group, about 750 of the 1,104 would actually have voted. They would have given Gore a net gain of 538 votes only if they had chosen him over Bush by at least 644 to 106. The felon vote may be Democratic—but not that Democratic. And, by the way, some 5,600 *ineligible* felons—68 percent of them registered Democrats—voted illegally in Florida last year, according to *The Palm Beach Post*. If officials had succeeded in purging all ineligible felons—and only ineligible felons—Bush's 537-vote margin would have been well over 1,000.

Florida's law disenfranchising felons who have served their sentences is a bad law that has been badly enforced. Florida is out of step with the 40 states that restore felons' civil rights after they have served their sentences. The law should be

repealed. And the wrongful disenfranchisement of 1,104 eligible voters was a gross injustice. But Bush and Harris have plausibly denied involvement in the felon purge. And even Mary Frances Berry does not claim that it was a Republican plot to steal the election.

The draft report also makes an elaborate but self-discrediting effort to imply that some kind of illegal racial discrimination must underlie the familiar fact that a far higher percentage of black voters in Florida (and elsewhere) spoil their ballots than do white voters. Contrary to the media-fostered myth that black voters are disproportionately stuck with punch-card voting machines that have higher spoilage rates than the machines used in predominantly white areas, the report notes (in passing) that the majority of white voters in Florida used the same punch-card machines as most black voters last year. It also says that the racial disparities in spoilage rates are attributable only "in a very small part" to differences among machines.

So what does explain these racial disparities? Some cite the well-known racial disparities in education and illiteracy rates and the unusually high percentage of first-time black voters in Florida last year. But the report rejects the first possibility (unconvincingly) and ignores the second, while offering no explanation of its own. Instead, it asserts that "persons living in a county with a substantial African-American or people-of-color population are more likely to have their ballots spoiled or discounted than persons living in the rest of Florida"—an odd way of summarizing evidence that black voters are more likely to make mistakes filling out their ballots than are white voters, even when using identical ballots and voting machines.

Are we supposed to think that the machines themselves are racist, that they set traps for unwary black voters while indulgently helping whites along? Or, perhaps, that the disparities in voter-error rates involve no racial discrimination at all? ■

Submitted by Senator McConnell
— for the Hearing Record —

The Florida Travesty, Cont.

The Civil Rights Commission releases a draft report of its findings. BY JENNIFER C. BRACERAS

THERE THEY GO AGAIN. In releasing their draft report on last year's presidential election in Florida, the majority members of the United States Commission on Civil Rights have once again put their political biases on display.

Earlier this year, the Commission heard three days of testimony regarding so-called voting "irregularities" in the November election. The hearings were an Alice-in-Wonderland-like spectacle, in which commissioner Christopher Edley demanded a "confession" from Florida election officials before even a fraction of the evidence had been received, and Commission chairman and left-wing provocateur Mary Frances Berry declared that the utter dearth of discrimination claims received by Florida officials constituted proof positive that discrimination had taken place.

Four months later, the Commission has put together a brazenly biased document designed to substantiate Chairman Berry's preconceived view—held in spite of evidence to the contrary—that African-American voters were disenfranchised in Florida last November.

The politicization of the report is obvious from the fact that it was leaked to the *Washington Post* before either of the two Republican-appointed commissioners had seen it or been briefed on its contents. Commissioners are supposed to review and comment on reports before the Commission votes to approve them. Yet when commissioner Russell Redenbaugh

requested that Mary Frances Berry send him a copy of the report, he received no response. Abigail Thernstrom, the only registered Republican on the Commission, learned that the report had been completed only when she received a telephone call from a reporter seeking her comments on the document.

It is, of course, ironic that an organization which concerns itself with voting "irregularities" would operate with so little regard for orderly process and fairness. But this "procedural travesty," as Commissioner Thernstrom calls it, is only half the story. The biggest problem with the Commission's report is its substance.

The document is an Orwellian exercise in distortions and half-truths. Put simply, the report's conclusion that minority voters were the victims of discrimination in Florida's November election has no basis in fact.

To begin with, the Commission's conclusion that black voters were nine times as likely as whites to have their votes discarded is based on an inappropriate statistical comparison of the percentage of spoiled ballots in each county with the percentage of African Americans residing in that county. (Ballots, of course, do not identify the race of the voter, so it is only through speculation and rough use of statistics that the Commission can make such a claim at all.)

Even assuming, however, that black voters were more likely than white voters to have their ballots discarded, this alone would point nowhere. The critical question—which this report makes no serious attempt to answer—would be why this had occurred. The report irre-

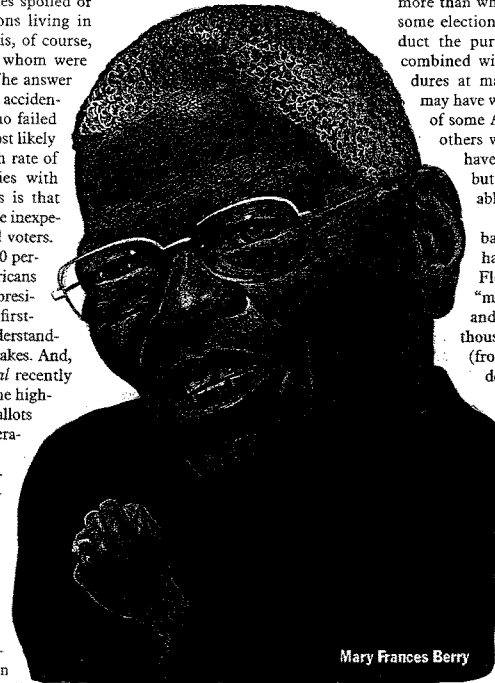
Jennifer C. Braceras is an attorney and research fellow at Harvard Law School. Her article "Uncivil Commission" appeared in the February 26, 2001 WEEKLY STANDARD.

sponsibly implies that the reason is related to race. But it makes no attempt to explain how race might have played any role in the disqualification of anonymous ballots.

Rather than rely on evidence, the report simply uses the passive voice to suggest official mischief where there is only voter error. Thus, it states that persons living in counties with high minority populations "were more likely to have their votes spoiled or discounted" than persons living in the rest of Florida. This, of course, begs the question: By whom were these ballots spoiled? The answer is that they were spoiled, accidentally, by individuals who failed to vote correctly. The most likely explanation for the high rate of spoilage in communities with large black populations is that many of these voters were inexperienced and uneducated voters. Indeed, approximately 40 percent of the African Americans who voted in Florida's presidential election were first-time voters, who are understandably prone to make mistakes. And, as the *Wall Street Journal* recently noted, the county with the highest number of spoiled ballots also has the highest illiteracy rate.

The report's criticisms of Florida governor Jeb Bush and Florida secretary of state Katherine Harris are likewise without merit. The report chastises Bush and Harris for failing to standardize Florida's voting mechanisms prior to Election Day. Yet state law, until recently, gave the governor and secretary of state little control over how elections are run in Florida's 67 counties. Had it given them more control, imagine the outcry and charges of election tampering that these same critics would have levied if the brother of the Republican presidential candidate and the Republican secretary of state had actually tried to centralize

voting procedures statewide before the election! After complaining about Florida's decentralized process, the Berry majority on the Commission refuses to give Florida officials any credit for significantly overhauling its election system in 2001 to establish uniform standards for voting and recounts and reduce many of the technical problems that arose in Florida last year.



Mary Frances Berry

Perhaps the document's most compelling charge is its claim that over 1,000 eligible voters were erroneously purged from the voter rolls as ineligible felons. Florida law prohibits felons from voting and requires election officials periodically to purge the voter lists of ineligible voters in order to prevent fraud. The felon lists used in the 2000 election were compiled by

Database Technologies, Inc., which purposely created an over-inclusive list, on the theory that local election supervisors would bear responsibility for pruning the list and confirming the data. The fact that local election officials failed in this task hardly indicates a conspiracy to keep minorities from the polls.

An overbroad purge in some counties may indeed have affected blacks more than whites. But the failure of some election officials to even conduct the purge (required by law), combined with lax security procedures at many polling precincts, may have worked to the advantage of some African Americans and others who should not legally have been allowed to vote, but who nevertheless were able to cast ballots.

The *Miami Herald*, no bastion of conservatism, has reported that the Florida election was "marred by illegal voting," and has concluded that thousands of illegal ballots (from ineligible felons, dead people, people who are not residents of Florida, and people who had already voted) were cast in this closest of presidential elections. Yet the Commission has the audacity to claim that fraud was not an issue last November and that only efforts to prevent it proved problematic.

Chairman Berry has publicly called upon the U.S. Department of Justice to investigate whether Florida election officials violated federal civil rights laws last November. And Democratic members of the Senate Judiciary Committee have extracted promises from Justice Department officials to investigate any credible allegations of disenfranchisement. This report provides none. ♦

Submitted by Senator McConnell
for the Hearing Record

ON SOCIETY • By JOHN LEO



Boxing with ballots

The legend of Florida's 'disenfranchised' black voters

Dishonest commentary often uses the passive voice. If nobody pays attention to your group or lobby, it has been "marginalized." People no longer drink too much. They are "afflicted with alcoholism and alcohol-related diseases." Passive, blame-shifting language is all around us, a verbal smog.

A current example is the U.S. Civil Rights Commission's report on the Florida presidential vote, filed last week. Once respected, the commission long ago degenerated into a hard-left hit group that specializes in trashing Republicans—Rudy Giuliani, Jeb Bush, George W. Bush. Its erratic and sarcastic chairwoman, Mary Frances Berry, friend of Hillary and donor to the Gore campaign, is devoted to the idea that the Republicans worked to suppress the black vote in Florida. But since her commission found no evidence of this—journalists haven't either—it settled for slippery passive language that implies what couldn't be proved.

In Florida, the commission charged, blacks were far more likely than whites to "have their vote spoiled" and were therefore "disenfranchised." Spoiled by whom? The voters themselves. Over 890,000 Florida blacks went to the polls in November, up 65 percent over 1996. This unexpectedly huge turnout brought a large number of inexperienced voters to the polls. Many voters mis-marked their ballots, thus "disenfranchising" themselves. This sort of language comes up again and again in the commission's report, implying bias or conspiracy. Blacks were far more likely than others "to have their ballots rejected." "Protected groups may have had less of an opportunity to have their votes counted."

Investigate the investigation. Buried deep in the report is the acknowledgment that no conspiracy or evidence of intentional unfairness was found. But Berry took the opportunity to call for a Justice Department investigation of whether minorities had been denied their voting rights. A nice touch. Berry investigates for six months, comes up with nothing, then calls for another investigation because something may yet be wrong.

The report's net effect is to keep alive the legend of the suppressed black vote in Florida. This story is becoming an unshakable myth. It may have the staying power to poison race relations for a long time to come. One example of how this can play out: Last week a *Los Angeles Times* columnist wrote that "injustice, ineptitude, and inefficiency stole the power of the vote from 1 in 5 African-Americans, as certainly as if their ballots had been boxed up and trucked off into the Everglades." Zero evidence of disenfranchisement, but the vote was stolen anyway.

"Disenfranchised" is a particularly toxic word. It traditionally refers to literacy tests, poll taxes, and other obstacles de-

liberately placed before blacks to prevent them from voting. To use the word to cover mistakes made by voters carries slippery language to the point of propaganda. In fact, the commission report argues that under the Voting Rights Act, disenfranchisement can occur without discriminatory actions or intent—it can be judged by impact alone. This would mean that a racial or ethnic group could decisively produce illegal discrimination against itself simply by voting more sloppily than other groups.

The commission revives the argument that poorer and blacker districts got the worst voting equipment. This is yet another myth promoted by the news media and signed on to by prominent Democrats, including Al Gore and Jesse Jackson. The *Washington Post*, for example, said "it is mainly affluent counties that have switched" to electronic voting equipment. Not so.

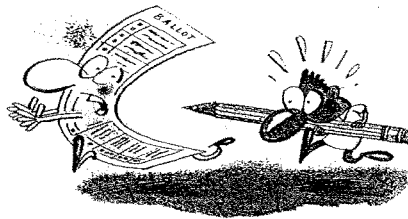
According to the commission's own figures, four of the seven counties with the highest percentage of black voters used optical balloting, while all five of the huge, overwhelmingly white counties (Miami-Dade, Palm Beach, Broward, Hillsborough, and Pinellas) used punch cards. Stephen Knack, an economist who studies voting issues, says that Florida is a good example of a national pattern: The largest and richest counties tend to use

punch-card equipment. Nationally, he said, 31.9 percent of whites and 31.4 percent of blacks live in punch-card counties.

With Prof. Martha Kropf of the University of Missouri-Kansas City, Knack analyzed demographic and Florida election data, finding "little support for the view that resource constraints caused poorer counties with large minority populations to retain antiquated or inferior voting equipment." Testifying before Congress, he cited a Caltech-Massachusetts Institute of Technology voting study, which found that punch-card systems result in about the same number of invalid ballots as touch-screen electronic systems.

As the *Miami Herald* reported last week, experts do not believe that differing voting systems were the source of the difficulty. They think "the underlying problem was the surge in first-time minority voters who did not know how to cast a ballot correctly—regardless of the voting technology."

It's folly to "define disenfranchisement downward" by including honest mistakes. Most of what went wrong in Florida's balloting was the result of voter error, well-intentioned mistakes (like the butterfly ballot layout), and stress on the system—so many people showed up that officials had little time to advise confused voters. Trying to depict this as a conspiracy or a massive civil rights violation is a sad and dishonest business. ■



Submitted by Senator McConnell
— for the Hearing Record —

JUNE 25, 2001



Spoiled

IF YOU WANTED to produce a report on the Florida election that had absolutely no chance of winning bipartisan support, here's what you'd do. First, you'd imply that Florida's Republican election officials were racist, even though you didn't have any proof.

Which is exactly what the eight-member U.S. Civil Rights Commission did when it wrote, in its report on the Florida election released last week, that "[t]he disenfranchisement of Florida's voters fell most harshly on the shoulders of African-Americans." But that implies that someone was doing the disenfranchising. And the implication is wrong—no official set out deliberately to keep Florida's blacks from voting. But the commission wouldn't unequivocally say that. The report admitted that it found no "conclusive evidence" that the state's highest officials "conspired to produce the disenfranchisement of voters." But it didn't find any *inconclusive* evidence either. The report could have performed a valuable service had it firmly put to rest rumors of a conspiracy. Instead, it has let them linger.

Second, you'd leak a draft of the report to the press before the commission's two Republican-appointed members had seen it. When Florida Governor Jeb Bush asked to review the full document, you'd refuse. And when Republicans complained about being locked out, you'd accuse them of sour grapes. All of which ensured that the vote adopting the report would be split on partisan lines and that Governor Bush would denounce it as "biased and sloppy." And so a report that took months of work and 100 witnesses to produce will likely hinder the cause of electoral reform it was meant to promote.

Which is a pity, because the data in the report (as opposed to the rhetoric) make a compelling case that spoiled ballots are a problem both parties should take seriously. According to the report, Gadsden County, in Florida's panhandle, had both the highest spoilage rate (12.4 percent) of Florida's 67 counties and the state's highest percentage of African American residents (63 percent). Indeed, in examining the ten Florida counties with the highest percentages of African American residents and African American voters, the commission found that nine had spoilage rates higher than the

Florida average of 2.93 percent. When, by contrast, the commission looked at spoilage rates in the ten counties with the highest percentages of white residents and white voters, it found that only two had spoilage rates higher than the state average. In an analysis conducted for the commission, Allan Lichtman, a professor of history at American University and an elections expert, determined that African Americans were nearly ten times as likely as whites to have their ballots rejected.

Was this racism? Probably not. A less ideological, more bipartisan commission might have highlighted Dixie County, which is predominantly poor and white and also had a higher rate of spoiled ballots than the state average. In fact, had the commission looked closely at class as well as race, it might well have produced a report Republicans could embrace. Because, in large measure, Florida's voting problems were economic: a lack of modern technology in many of its poorer counties. When ballots were counted by optical-scan machines located within polling stations—as in most of Florida's richer counties—only 0.8 percent of ballots were rejected. That's largely because if the scanner rejected a ballot, the voter was often still present to correct the error. But when ballots were counted by scanning machines in a central location, or when punch-card ballots were used—as was the case in most of Florida's poor, predominantly African American counties—4 percent of ballots were rejected. Counties that used punch cards or optical scanners in central locations accounted for 65 percent of all ballots cast but 90 percent of all ballots spoiled.

Eliminating punch-card ballots and locating optical scanners on-site need not be an ideological or partisan issue. Indeed, even before the report, the Florida legislature and Jeb Bush approved a sweeping ballot-reform measure that decertifies punch-card machines and requires second-chance technology that would immediately determine whether voters have made mistakes. The real question now is whether Congress will give other states the money to do the same thing. Senators Charles Schumer, Robert Torricelli, Mitch McConnell, and Sam Brownback have sponsored the Bipartisan Federal Election Reform Act, which would provide \$2.5 billion in grants for states seeking to upgrade their voting technology and procedures. The bill stands a good chance of passing, but only if Republicans believe electoral reform isn't a political weapon meant to undermine the GOP. And it's not. Too bad no one told the U.S. Civil Rights Commission. ■

THE NEW REPUBLIC

JUNE 25, 2001 : 9



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

624 Ninth Street, N.W.
Washington, D.C. 20425

July 17, 2001

The Honorable Christopher J. Dodd
Chairman
Committee on Rules and Administration
Attention: Carole Blessington
United States Senate
SR-305, Russell Senate Office Building
Washington, D. C. 20510

Dear Chairman Dodd:

I am replying below to the questions forwarded by your office with regard to my testimony at the Rules Committee hearing on June 27, 2001. I understand that my reply will be included in the record of the hearing. Thank you for extending this opportunity to me.

QUESTIONS FROM CHAIRMAN DODD FOR CHAIRPERSON BERRY

1. *One criticism of the [majority's] Report is that it explores the disenfranchisement of only one minority group, African Americans, even though Hispanic Americans are the largest minority group in Florida and are part of the Commission's jurisdiction. Please provide justifications as to why the [majority] Report does not address the disenfranchisement of other minority groups. Particularly Hispanic voters.*

In responding to this question allow me first to emphasize that the U. S. Commission on Civil Rights does not consist of "majority" and "minority" members. We are a study commission that approves or disapproves of reports that are prepared by our staff. Once a report is approved by a majority of the eight members of the Commission, it becomes a report of the Commission. Put simply, approved reports become Commission reports; there are no majority and minority reports of the Commission.

The Commission investigated the allegations of voting irregularities it received. The Commission's Report not only discusses the disenfranchisement of African-Americans, but also other protected classes of people such as: individuals with disabilities, persons with limited English proficiency and other racial/ethnic groups. The Commission's report, in fact, specifically examines the disenfranchisement of Spanish-speaking voters in some central Florida counties, although the Commission did not receive the number and variety of allegations of voting irregularities involving this protected group on a par with the allegations we received in Florida regarding African Americans.

Also, Dr. Allan Lichtman explained on pages 3-4 of his report entitled "Report on the Racial Impact of the Rejection of Ballots Cast in the 2000 Presidential Election in the State of Florida," that the available data could not easily distinguish Hispanics from other non-blacks. Dr. Lichtman stated that he used an "ecological regression that provides estimates from county-level and precinct-level of the percentage of blacks and non-blacks casting unrecorded votes as well as either overvotes or undervotes." Dr. Lichtman further explained that "non-blacks include non-Hispanic whites as well as Hispanics and members of other races. Because of limitations in the data available, no attempt was made to distinguish the components of the non-black group, although racial disparities might be even greater if blacks and non-Hispanic whites were isolated for analysis."

On pages 20-21, Dr. Lichtman's comparison of the ballot rejection rate between African Americans and Hispanics for Dade County is discussed. Dr. Lichtman reported that Dade County has a substantial Hispanic population which provided "an opportunity to test whether differences in education are likely to have been responsible for the racial disparities in ballot rejection rates between blacks and non-blacks in that county." In Dade County, the high school graduation rate for African Americans was one percent higher than that of Hispanics. If educational differences were the cause for the racial disparity of ballot rejection rates, then Dr. Lichtman's analysis should show a positive relationship between the ballot rejection rate of Hispanics and the percentage of Hispanic voter registrants in Dade County. Dr. Lichtman found just the opposite. A negative relationship exists between the rate of Hispanic voter registration in Dade County and the rate of rejected ballots.

Lastly, Chapter Six of the Report, entitled "Accessibility Issues," discusses the barriers against Floridians with limited English proficiency in casting a ballot for the candidate of his/her choice. Spanish-speaking Hispanics are among the group of Floridians who were disproportionately affected by the lack of language assistance. As discussed on page 130 of the Report, Florida Attorney General Robert Butterworth testified that around 11 of Florida's 67 counties have ballots in English and Spanish [Please see Robert A. Butterworth, attorney general, State of Florida, Testimony, Tallahassee Verified Transcript, Jan. 12, 2001, p. 130.]

2. *The dissent suggests that the highest spoilage rates occurred in the 4 (four) Florida counties where the supervisors of elections were African American. Is this characterization factual pursuant to the Commission's investigations into the 2000 presidential election in Florida?*

The claim by Commissioners Russell G. Redenbaugh and Abigail Thernstrom that African Americans were the election supervisors in the counties with the highest spoilage rates during the 2000 presidential election in Florida is false. I did not know they were making this claim until I read their statement after the Senate hearing on June 27, 2001. Since the hearing, the Commission staff has confirmed the following facts: In November 2000, there was only one African American Supervisor of Elections in office in the entire state of Florida – Gertrude Walker of St. Lucie County. This information was confirmed in telephone interviews conducted by a member of our staff with Ms. Pam Iorio, the President of the Florida State Association of Supervisors of Elections in November, 2000 and other elected supervisors of elections.

On November 14, 2000, the Orlando Sentinel published a survey of all 67 counties' "blank or spoiled ballot rates" for the 2000 presidential election. The Collins Center updated the survey as part of its report for Governor Jeb Bush's Select Task Force on Election Procedures, Standards and Technology, entitled "*Revitalizing Democracy in Florida*," published on March 1, 2001. According to the data reported, St Lucie county, the only county with an African American supervisor of elections during the 2000 presidential election, had a blank/spoiled ballot rate of .82% or less than 1.00%.

There are currently four African American supervisors of elections in Florida. In addition to Gertrude Walker of St. Lucie County, Shirley Knight of Gadsden County, Miriam M. Oliphant of Broward County, and Annie D. Williams of Hernando County, were elected in 2000 and took office in January, 2001.

The Commission's staff director asked the dissenters to provide the source of their information, but, to date, they have declined to provide the requested information.

QUESTIONS FROM SENATOR FEINSTEIN FOR CHAIRPERSON BERRY

1. *A pattern of minority voter disenfranchisement does not need to result from intentional acts for it to violate the Voting Rights Act of 1965, does it?*

No it does not. The law is very clear on this point. Under the Voting Rights Act, as amended, a violation of section 2¹ may be established by either showing intentional discrimination or that the totality of the circumstances "results" in a section 2 violation. To establish a violation under the act, one need only prove that a practice or procedure has a discriminatory effect. It is no longer required to prove that the practice was motivated by discrimination.

The statistical analyses of ballot spoilage rates that Drs. Lichtman and Lott conducted produced disparate conclusions. Would you (and Dr. Lichtman) be willing to submit your analysis – and the data behind it – to independent peer review? Whom would you recommend?

The Commission would be pleased to submit the analyses performed by Dr. Lichtman, along with his data for independent review along with the analyses performed by Dr. Lott. The independent reviewer should not be from American University where Dr. Lichtman is employed, Yale where I understand Dr. Lott to be employed, or Harvard where Stephen Thernstrom is employed. The clear choice would be Professor Bernard Grofman of the

¹ Section 2 of the Voting Rights Act is a codification of intent of the 15th Amendment and forbids racial discrimination with respect to voting rights. It provides:

No voting qualifications or prerequisites to voting, or standard, practice, or procedure, shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race and color 9Pub. L. No. 89-110, 79 Stat.445 (codified as amended at 42 U.S.C. §§ 1971, 1973 to 1973bb-1 (1994)).

University of California, Irvine. Dr. Grofman is one of the nation's leading authorities on the application of quantitative methods to voting rights issues. He was the expert whose work the Supreme Court endorsed in Thornburg v. Gingles, the leading case on applications of the Voting Rights Act.

I would emphasize, however, that Dr. Lichtman's work and that of Dr. Lott have already been subjected to independent review by Professor Philip A. Klinkner, Associate Professor of Government at Hamilton College. Professor Klinkner previously submitted a report to the Senate Committee on Rules and Administration, entitled, "*Whose Votes Don't Count? An Analysis of Spoiled Ballots in the 2000 Florida Election.*" Professor Klinkner notes in his report that his work was conducted completely independently:

"This project began in response to media reports about the findings of the U.S. Commission on Civil Rights (USCCR) that indicated higher rates of ballot spoilage in Florida counties with larger numbers of blacks. I was intrigued by this result, so I decided to run my own independent analysis of the data. I should mention that I have no official connection to the USCCR, but I have met two of its members, Abigail Thernstrom and Professor Christopher Edley. I did not, however, contact them before undertaking this analysis. In addition, I did not know Professor Alan Lichtman who conducted the USCCR analysis. Since arriving at my findings, I have spoken by telephone with Professor Lichtman and Professor Edley to inform them of my conclusions. In summary, these findings are mine and mine alone."

I trust these replies to your questions meet your needs. I would be pleased to respond to any further questions you may have regarding my testimony before the Senate Rules and Administration Committee.

Sincerely,



Mary Frances Berry
Chairperson

**Statement of Dr. Allan J. Lichtman Regarding The Racial Impact of
The Rejection of Ballots Cast in the 2000 Presidential Election In The
State of Florida Presented Before The United States Senate Committee
on Rules and Administration**

July 16, 2001

This statement responds to the presentation before this Committee by Abigail Thernstrom, a Commissioner for the United States Commission on Civil Rights, and by her statistical consultant John R. Lott, who also submitted a statistical report. The Thernstrom-Lott statement attempts to challenge findings of the report "Voting Irregularities in Florida During the 2000 Presidential Election," adopted by a majority of the United States Commission on Civil Rights. I am responding to their statement as it addresses a study I prepared for the Commission, documenting major racial disparities in ballot rejection rates in Florida's 2000 presidential election. My statement demonstrates the following:

1. **The initial finding of major racial disparities in ballot rejection rates in Florida's 2000 presidential election set forth in my original report is confirmed by additional evidence of what actually happened in voter precincts and is not challenged by any alternative findings in the dissenting statement.**
2. **The dissenters' statistical consultant admitted before the Senate Committee on Rules that "a greater percentage of black and Hispanic people are turned away than, or don't get to vote, than white people." The dissenters concede in their report that African-Americans in Florida probably had their ballots rejected at a rate at least triple that of non-African Americans.**
3. **Racial disparities in ballot rejection rates cannot be explained by differences between blacks and non-blacks in education, income, or any other factor pointed to by the dissenters.**
4. **The relationship between race and ballot rejection remains substantial and statistically significant even within a comprehensive model with much greater explanatory power than any of the models presented by dissenters.**
5. **Although the dissenting statement offer education and literacy as explanations for ballot rejection, their proposed models exclude these key variables, include redundant variables, explain relatively little of the variation in ballot rejection among counties, and are contradicted by precinct-level results.**

The Finding Of Major Racial Disparities In Florida's 2000 Presidential Election Is Confirmed By Additional Evidence And Is Not Contradicted By Any Alternative Findings

My initial report analyzed county and precinct-level data in Florida that revealed major differences in the rate of ballot rejection for blacks and non-blacks in the 2000 presidential election. There is not a single alternative finding in Dr. Thernstrom's statement or Dr. Lott's statistical report that even purports to show the lack of racial disparities in ballot rejection. Indeed, Dr. Lott admitted the existence of such disparities under questioning by Senator Charles Schumer during the hearings before this Committee. The following is the account of that examination in the New York Times: "Mr. Schumer then wrung out of Mr. Lott a defeated "yeah" to the question of whether 'a greater percentage of black and Hispanic people are turned away than, or don't get to vote, than white people?'"¹ Thus the dissenters' expert confirmed under examination the key finding of my initial report.

Likewise Dr. Thernstrom conceded in her statement that there was at least a 300 percent discrepancy in rejected ballots for black as compared to non-black voters. She says that racial disparities in ballot rejection "was likely on the order of three to one" in Florida, not on the basis of any independent study, but rather by choosing the lowest within-county ratio of the counties I studied with precinct data.

Since completing my original report I have since gathered additional precinct-level data for Broward and Escambia Counties. Broward is the second most populous county in Florida. Escambia is a county with optical scanning technology recorded by precinct. Escambia County had the largest number of rejected ballots (4372) for such counties, accounting for about a quarter of all rejected ballots for counties with optical scanning technology recorded by precinct. The analysis of Escambia County offers the first detailed glimpse using precinct-level data of the relationship between race and ballot rejection for counties with optical scanning technology recorded by precinct. It confirms the finding suggested in my first report of racial disparities in ballot rejection rates even among counties with the best available technology.

Broward County had an overall rejection rate of 2.5 percent. However, 6.5 percent of ballots were rejected in precincts that were 90% or more black in their voters, compared to 2 percent in precincts that were 90 percent or more non-black. Escambia County had an overall rejection rate of 3.6 percent. However, 13.7 percent of ballots were rejected in precincts that were 90% or more black in their voters, compared to 2.2 percent in precincts that were 90 percent or more non-black.

The precinct-level data I examined (for Broward, Duval, Escambia, Miami-Dade and Palm Beach Counties) now includes about 58 percent of the statewide total of rejected ballots. Within each county, there were major disparities in ballot rejection rates for African-Americans and non-African-Americans, ranging as high as 18 percentage points, with an average of about 10 percentage points. If black ballot rejection rates had

¹ Katherine Q. Seelye, "Senators Hear Bitter Words on Florida Vote," New York Times, June 28, 2001.

equaled white ballot rejection rates in these counties alone, more than 30,000 additional black votes would have been counted in Florida's presidential election.

Racial Disparities In Ballot Rejection Rates Cannot Be Explained By Differences Between Blacks And Non-Blacks In Education, Literacy, Income, Poverty Or Any Other Factor Cited By Dr. Thernstrom.

The statistical report presented by John R. Lott allegedly tests the hypothesis presented in Dr. Thernstrom's statement that differences in education and literacy account for racial disparities in ballot rejection. Yet Dr. Lott's analyses fail to include literacy or any other educational measure in any of the eight models purported to explain differences in the ballot rejection rates. Instead, the models include only measures of income and poverty, even though Dr. Lott admits that these variables are only "roughly associated with education" or "the ability to read and follow voting instructions."

Table 1 below reports the results of a county-level analysis that, unlike the statistical report presented by dissenters, controls for literacy, education, poverty, and income for all counties. In addition, these equations also control for differences in technology: whether a county uses punch cards, optical scanning centrally recorded, or paper ballots or machines. The county-level findings reported in Table 1 show that racial differences in ballot rejection rates in the 2000 presidential election are not reducible to differences between blacks and non-blacks in income, poverty, education, or literacy. The coefficient measuring the influence of the percentage of black voters on ballot rejection rates, controlling for all variables in Table 1, is .140, which corresponds to a difference in ballot rejection rates of 14.0 percentage points between blacks and non-blacks.² This means that independent of income, poverty rates, education, literacy, and the technology for voting, there is a double-digit difference in ballot rejection rates between African Americans and non-African Americans.

² The coefficient is statistically significant at a level beyond the stringent .01 standard used in social science.

**TABLE 1: THE INFLUENCE OF RACE ON
BALLOT REJECTION RATES 2000
PRESIDENTIAL ELECTION IN FLORIDA,
CONTROLLING FOR LITERACY, EDUCATION,
INCOME, AND POVERTY, COUNTY DATA**

VARIABLE	REG. COEFF.	T VALUE	SIGNIF.
BLACK VOTERS	.140	4.2	.000
POVERTY PERSONS 18+	-.047	-.644	.522
MEDIAN INCOME	-.00009	-1.24	.220
LITERACY	-.077	-1.14	.261
% UNDER 9 TH GRADE	.192	2.65	.010
PUNCH CARD	3.20	6.81	.000
OPTICAL CENTRAL	4.42	7.70	.000
PAPER/LEVER	3.02	2.65	.011
$R^2 = .805$			

The Relationship Between Race And Ballot Rejection Remains Substantial And Statistically Significant Even Within A Comprehensive Model With Far Greater Explanatory Power Than Any Models Presented By The Dissenters.

The results of estimating a more comprehensive model of ballot rejection in Florida counties are presented in Table 2. This model does a far better job than any of the models in Dr. Lott's statistical supplement in accounting for changes from county to county in the percentage of rejected ballots in Florida's 2000 presidential election. With an R^2 value of .866, this model accounts for 86.6 percent of the variation from county to county in ballot rejection rates, compared to from 73.1 percent to 78.6 percent for the models presented in Dr. Lott's report. The coefficient measuring the influence of the percentage of black voters on the percentage of rejected ballots -- statistically significant at a level beyond the stringent .01 standard used in social science -- is .143, which corresponds to a difference in ballot rejection of 14.3 percentage points between blacks and non-blacks, controlling for the variables in the equation.

None of the socio-economic variables in this model, however, have a statistically significant influence on ballot rejection rates. Neither does the variable measuring changes in voter turnout between 1996 and 2000, indicating no support for the hypothesis that differences in first-time voting among black and non-blacks account for difference in

TABLE 2: THE INFLUENCE OF RACE ON BALLOT REJECTION RATES 2000 PRESIDENTIAL ELECTION IN FLORIDA, COUNTY DATA			
VARIABLE	REG. COEFF.	T VALUE	SIGNIF.
BLACK VOTERS	.143	4.77	.000
POVERTY PERSONS 18+	-.014	-.218	.828
MEDIAN INCOME	-.00002	-.229	.820
LITERACY	-.0003	-.002	.998
% UNDER 9 TH GRADE	.012	.158	.875
INCREASE VOTE 96-2000	-.014	-.638	.526
TURNOUT 2000	-.075	-2.42	.019
PERCENT DEM.	-.049	-2.01	.050
VOTERS PER PRECINCT	-.002	-2.78	.008
DEM SUPERVISOR	-.345	-.466	.686
REP SUPERVISOR	-.317	-.406	.643
PUNCH CARD	3.46	8.09	.000
OPTICAL CENTRAL	4.31	8.18	.000
PAPER/LEVER	2.35	2.30	.026
$R^2 = .866$			

ballot rejection rates.³ Similarly, the political identity of election supervisors has no discernible influence on ballot rejection rates in the comprehensive model. Variables measuring whether the supervisor is Republican or Democrat both have negative signs (relative to non-partisan supervisors), and fail to approach conventional levels of statistical significance.

Based on analysis of Florida individual voters files for 2000, Professor Philip Klinkner of Hamilton College has also provided county-by-county percentages of first-time voters. Substituting this direct measure of first-time into the model for change in voting between 1996 and 2000 produces virtually no change in the relationship between race and ballot rejection.⁴ The values reported in Table 3 show that the coefficient for the percentage of black voters is statistically significant beyond conventional levels and has a value of .137, which corresponds to a difference in ballot rejection of 13.7 percentage points between blacks and non-blacks, controlling for the variables in the equation. The coefficient measuring the relationship between first-time voting and ballot rejection is negative and falls far short of statistical significance.

³ Dr. Thernstrom also repeats in her statement, without conducting any reliability tests, two statistics from the media that are certainly false: that 40 percent of African-American voters were first-time voters and that the African-American percentage of the 2000 Florida electorate exceeded its 14.6 percentage of the state's population. Analysis of individual voter files for the 2000 election by Professor Philip Klinkner of Hamilton College indicates that less than 25 percent of African-Americans were first-time voters in 2000, that the difference between first-time voting among African-Americans and non-African Americans was only about four percentage points, and that African-Americans were only about 10 percent of the 2000 electorate.

⁴ This measure will slightly overestimate first-time voting because voters may have voted in other states or have voted prior to 1994, when the records begin.

TABLE 3: THE INFLUENCE OF RACE ON BALLOT REJECTION RATES 2000 PRESIDENTIAL ELECTION IN FLORIDA, COUNTY DATA			
VARIABLE	REG. COEFF.	T VALUE	SIGNIF.
BLACK VOTERS	.137	4.56	.000
POVERTY PERSONS 18+	.011	.167	.868
MEDIAN INCOME	.00001	.149	.882
LITERACY	-.009	-.142	.887
% UNDER 9 TH GRADE	.024	.326	.746
% FIRST-TIME VOTERS	-.015	-.319	.751
TURNOUT 2000	-.071	-2.50	.016
PERCENT DEM.	-.047	-1.98	.054
VOTERS PER PRECINCT	-.002	-2.20	.033
DEM SUPERVISOR	-.452	-.637	.527
REP SUPERVISOR	-.475	-.640	.525
PUNCH CARD	3.32	8.27	.000
OPTICAL CENTRAL	4.47	8.94	.000
PAPER/LEVER	2.32	2.24	.030
$R^2 = .866$			

The Statistical Report Presented By Dissenters Provides No Credible Models Of Ballot Rejection In Florida's 2000 Presidential Election.

The statistical report commissioned by dissenters includes eight models that purport to explain the relationship between race and ballot rejection. Not only do these models omit key variables that are essential to hypotheses advanced by Dr. Thernstrom, but they also include duplicative measures of the racial composition of counties, destroying the integrity of the effort to gauge the independent influence of race on ballot rejection rates. Dr. Lott's models examine a far less inclusive set of variables than the model developed in Table 2 above, excluding among other factors, literacy, education, voter turnout, and changes in voter turnout. His models also produce results that are internally contradictory and conflict with what we actually know happened at the precinct level in Florida's 2000 presidential election. Why would the dissenters' statistical models exclude the variables that dissenters affirm to be most relevant while including redundant variables that provide no new information, but only cancel each other's effects? One can only speculate that the dissenters might have been less interested in accurately modeling the ballot rejection process in Florida and more interested in coming up with models -- however invalid -- that at least appeared to challenge the relationship between race and ballot rejection rates.

The models in Dr. Lott's report that purport to show the lack of a statistically significant relationship between race and ballot rejection include redundant racial variables that make it impossible to gauge accurate the direction, magnitude or statistical significance of the independent relationship between race and ballot rejection. Model 1, for example, includes the percentage of blacks among registered voters, the percentage of Hispanics in the population, the percentage of whites in the population, and the percentage of African-Americans in the population. Several of the models also predict that within counties, where the technology is the same, there should be random variation in the relationship between the percentage of blacks among voters and the percentage of rejected ballots. This theorizing by the dissenters is contradicted by what we all know actually happened in Florida's voting precincts. The precinct-level data ignored by dissenters demonstrates a powerful, positive statistically significant relationship between the percentage of black voters and the percentage of rejected ballots, with differences between black and non-black rejection rates that range as high as 18 percentage points and averaging about 10 percentage points. Rarely in social science is a statistical model so decisively rejected by its own predictive results!

The statistical models in Dr. Lott's report also contradict their hypothesis that the presence of a Democratic election supervisor is associated with higher rates of ballot rejection. In all models, the variable signifying a Democratic election supervisor has a negative, not a positive relationship with ballot rejection rates. Moreover, Dr. Lott's analysis of the race of election supervisors identifies four supervisors as African-American, whereas information developed by the Commission staff indicates that there was only one African-American supervisor at the time of the election.

The remaining analyses in the statistical report pertain to comparisons between ballot rejection in 2000 and earlier years and provide no insight into the measurement of

racially linked ballot rejection rates in 2000. These analyses are based on unverified data, fail to control for changes in technology, and falsely assume that if ballot rejection rates are related to race an increase in black voter registration must be accompanied by an increase in ballot rejection rates.

Dissenters also argue that estimates of rejection rates for black and non-black voters cannot be obtained from aggregate data. In fact, the methods and reliability checks used in my report were designed for the analysis of aggregate data and are sustained by multiple levels of analysis – at both the county and precinct level. The far-fetched examples and strained analysis in the dissenters’ opinion suggests that African-Americans lived in counties with mechanisms that somehow produce high ballot rejection rates for the non-blacks living in those counties, but not for the blacks living in the counties. Yet we know that this assumption is false because we have data for some two thousand precincts within counties demonstrating that African-Americans within these counties, not the non-African Americans, experience especially high rates of ballot rejection.

Conclusion

In sum, the dissenters present no evidence contradicting the finding of my initial report that there were major racial disparities in ballot rejection rates in Florida’s 2000 presidential election. They fail to test empirically their hypothesis that such disparities can be attributed to education, literacy, or first-time voting. In addition, the dissenters rely on a statistical report that provides no credible models of ballot rejection in the 2000 presidential election in Florida. As both my initial report and this supplement demonstrate, there were major racial disparities in ballot rejection rates in Florida.

To: Senator Mitch McConnell

From: Abigail Thernstrom, Commissioner, United States Commission on Civil Rights

Re: Response to the Question Posed Subsequent to the Hearings on Election Reform, Committee on Rules and Administration, United States Senate, June 27, 2001.

I very much appreciate the opportunity to respond to the following question, which you posed: "Based on your review of the Commission's majority Report and specifically Dr. Lichtman's analysis, what are your thoughts about the particular factors or variables included in (or excluded from) the majority analysis of ballot rejection rates? And could you explain whether the inclusion of other relevant factors or variables in the analysis of ballot rejection rates would produce a conclusion different from that reached by Dr. Lichtman?"

The analysis of undervotes and overvotes—so-called "spoiled" or "rejected" ballot—provided in the Report of the U.S. Commission on Civil Rights is extraordinarily primitive and crude. This same judgment applies to the June 4, 2001 report that Dr. Allan Lichtman provided to the commission—a report that seems to have been almost entirely incorporated into the document prepared by the Commission staff. Ordinarily, such an expert report to a commission would add technical detail that would answer the questions of professional social scientists and other interested readers. The Lichtman report, however, is devoid of information that would allow readers to scrutinize carefully the method by which he arrived at this conclusions.

The statistical analysis in Chapter 1 of the Commission's report finds that black citizens of Florida were nine times as likely as whites to cast ballots that did not include a valid choice for president. It is, in fact, the main and widely reported conclusion. But this wild guesstimate is an inference based on the simple correlation between the rate of ballot spoilage and the proportion of the population made up of African Americans across Florida's 67 counties. Since no other variables are included in this correlation, anyone who ever took Statistics 101 would realize that it is of just about zero value.

The Commission's report acknowledges the need for "a more refined statistical analysis" of this matter, and claims that Dr. Lichtman performed "regression analysis" to measure the impact of a wide range of other variables. That claim is misleading. Exactly what variables did Dr. Lichtman examine in his regression analysis? Both the Commission's report and the Lichtman report are extremely vague about that question. The report notes that "an obvious question" was "presented" by the findings of the simple correlation. "Is there some other factor that better explains this disparity of ballot rejection rates? In short the answer is no."

The first thing to note about this passage is that it doesn't sound like anything a sophisticated social scientist would write. To say that the issue is whether "some other factor better explains" a disparity implies that the analyst, like a voter casting a ballot for president, must pick one and only one candidate. The question any "refined statistical analysis" asks is not what single factor is most important. Rather, it asks what combination of factors best explains the phenomenon, and what causal weight may be attributed to each. Such a determination is precisely the purpose of multivariate regression analysis. Thinking that perhaps this formulation was a mistranslation by the Commission staff, I checked Dr. Lichtman's report, and found to my surprise that this language was lifted word for word from his own report.

Furthermore, to claim that there are no other factors that better explain the disparity in ballot rejection rates, seems to imply that many possibly relevant factors have been analyzed by Dr. Lichtman. The report states explicitly that he did a regression that "controlled for the percentage of high school graduates and the percentage of adults in the lowest literacy category." It also claims he did a similar regression analysis for counties that used punch card or optical scanning technology recorded centrally. The implication is that various other factors were also considered, and were found to be of no significance. Appendix I of Dr. Lichtman's report gives county-level values for such variables as median income and percent living in poverty.

Contrary to normal social science practice, the actual results of these regression analyses are not supplied in either report, making it impossible for readers with statistical expertise to judge for themselves whether or not Dr. Lichtman's interpretation of the numbers is persuasive. Indeed, over the past month we have repeatedly asked the Commission's staff director for the detailed regression results and for the machine-readable data that were used to produce them. We still do not have them. Note, by contrast, that Judge Richard Posner has just published a book about the Florida election, *Breaking the Deadlock: The 2000 Election, the Constitution, and the Courts* (Princeton University Press, 2001). Although his book is aimed at a general audience, unlike Dr. Lichtman's report, Judge Posner includes seven tables that provide the complete details of the regression analyses that he performed to determine the sources of the undervotes and overvotes in Florida. Other scholars across the country and across the political spectrum are providing us with machine-readable data in a conversation in which scholarly commitment, not political affiliation, governs. Dr. Lichtman is alone in not providing his regression outputs and data so that he can join that conversation.

The "refined statistical analysis" provided by Dr. Lichtman consists of nothing more than adding two measures of education (very inadequate measures, we argue in the dissent), and controlling for voting technology. And we have to take Dr. Lichtman's word about those results, since he does not supply the details. Competent social scientists can have long arguments about the interpretations of the results of a regression analysis. It is regrettable that the Civil Rights Commission expects us to take its claims on faith.

What about all the other variables that might have influenced rates of ballot spoilage? Poverty levels would be one good example. Senator McConnell asked Dr. Lichtman

specifically about the possible role of poverty at the June 27 hearing, and received a completely non-responsive answer about the influence of education. This seemed puzzling. Dr. Lichtman, after all, is no absent-minded professor who has never learned to listen to questions carefully. He has served as an expert witness in federal court on more than 60 voting rights cases. As far I can tell from a close reading of the Majority Report and the Lichtman report, the honest answer to the question was that Dr. Lichtman had no idea whether poverty influenced ballot spoilage rates because he had failed to include it as a variable in his regression analysis.

The supposed refinements in Dr. Lichtman's regression analysis did not include using poverty rates as a variable. Nor did they include measures of median family income, population density, proportions of first-time voters, or age structure, to name a few about which census data is readily available. So when the report declares that the answer to the question of whether other factors could have produced the ballot is "no," it is being deceptive. The commission has no idea what role "other factors" may have played, because Dr. Lichtman did not take them into account in his analysis.

One "other factor" Dr. Lichtman failed to examine was the political party affiliations of the people in charge of conducting the elections--the county supervisors of elections. Drawing on a regression analysis conducted by Dr. John Lott, the dissent shows that having a Democratic supervisor of elections sharply increased the ballot spoilage rate, a fact that demonstrates the weakness of all these statistical estimates, since obviously Democrats were not determined to suppress the black vote. Nevertheless, Dr. Lott, we believe, has shown convincingly that when a broader range of variables is included in the analysis, the influence of race shrinks to the vanishing point.

Dr. Lichtman also performed one other type of analysis, whose results he stressed in his appearance before the committee. He examined precinct-level data for three of the state's largest counties. But this analysis is not more "refined" than the simple correlational analysis the report began with. It does not even include the controls for education that he used in his county-level regression analysis, much less such variables as poverty rates, income levels, and the like. The analysis looks at race and race alone, crudely dichotomizing the population of these precincts as black or "nonblack." The only other variable considered is the voting technology used. And his "extreme case" analysis of just the precincts that were either 90 or more percent black or at least 90 percent "nonblack" showed racial disparities that were only about a third as large as his nine-to-one estimate for the state, even though extreme case analysis by its very nature yields exaggerated estimates of differences in the population as a whole.

In sum, the statistical analysis Dr. Lichtman provided--the foundation of the entire Commission report, I think it fair to say--is hasty, incomplete, and unacceptably crude. However, perhaps I would judge it more kindly if he had provided the regressions and the data that went into them, which would have given me the full picture.

Dr. Robert Lerner, Lerner and Nagai Quantitative Consulting, 2305 Ring Street,
Rockville, MD 20851.

Dr. David Murray, STATS2100, 2100 L. Street NW, D.C. 20037.

Professor Harold Stanley, Department of Political Science, University of Rochester .

Professor Ronald Weber, Department of Political Science, University of Wisconsin,
Milwaukee.

3. I would agree that most "voter error" is unintentional, though I think it should be noted that a small but non-trivial number of voters simply fail to cast a vote for president. They abstain from making a choice, for whatever reason, and yet their ballot is classified as "spoiled" or "rejected" in election studies like that conducted by the Civil Rights Commission.

Most "spoiled" ballots, though, very likely do not reflect the intention of the voter. There is substantial evidence that the best way to minimize voter error is by using technology that provides feedback and the opportunity to correct a ballot.

It is important to notice, though, that there is a real conflict between the aim of minimizing voter error by providing immediate feedback and our tradition of the secret ballot. Perhaps it would not apply to systems that remind voters of the choices they have made before they step out of the voting booth. But such systems leave it to the voter to understand what appears on the screen. The more common, and I would imagine less expensive, way of providing feedback is to have an election worker, at the precinct, tell the voter that he or she has made no choice for a particular office or has made more than one choice when only one is allowable. The tradeoff is that some voters may feel that the election worker who questions them has invaded their privacy—that it is none of anyone else's business if they decide not to vote for the top of the ticket, for instance.

Before one dismisses this possibility, recall that the U.S. Commission on Civil Rights devoted a good deal of space to testimony that some black voters felt intimidated because of a routine police vehicle inspection check two miles from a polling place or because they saw an uniformed policeman near a polling place. If anyone could be intimidated by that, might they not be far more intimidated when an election official, perhaps of a different race and political party, scrutinizes a machine into which their ballot has been fed and quizzes them about their intentions? It would be ironic if, in our zeal to minimize the already very low rate of voter error, we introduced reforms that led more people to feel inhibited about making choices on election day.

The real solution to voter errors, it seems to me, is increased voter education—a job for the states themselves, for political parties, and for other interested organizations. Donna Brazile, Al Gore's campaign manager, recently lamented the inadequate voter education

in preparation for the last election. "I take full responsibility for the lack of voter education resources that could have helped us," she said. While I think Ms. Brazile blames herself excessively, I do look forward to a greater effort to prepare voters to cast their ballots in the future.

To: Senator Diane Feinstein

From: Abigail Thernstrom, Commissioner, United States Commission on Civil Rights

Re: Response to the Questions Posed Subsequent to the Hearings on Election Reform, Committee on Rules and Administration, United States Senate, June 27, 2001.

I very much appreciate the opportunity to respond to the following questions, which you posed:

1. A pattern of minority voter disenfranchisement does not need to result from intentional acts for it to violate the Voting Rights Act of 1965, does it?
2. The statistical analysis of ballot spoilage rates and Drs. Lichtman and Lott conducted produced disparate conclusions. Would you (and Dr. Lott) be willing to submit your analysis—and the date behind it—to independent peer review? Whom would you recommend?
3. In your dissenting statement to the June 2001 Civil Rights Commission report, *Voting Irregularities in Florida during the 2000 Presidential Election*, you argue that ballot spoilage is due to voter error, not to any attempt at disenfranchisement. If one were to assume your premise, and add to it another premise, which is that most voter error is unintentional, what steps would you propose to reduce voter error rates?

1. It is absolutely correct that violations of the 1965 Voting Rights Act do not need to involve intentional disfranchisement. Section 2 of the act was amended in 1982 in an effort to circumvent the Supreme Court's decision in *Bolden v. City of Mobile*, 1980. *Bolden*, in insisting that plaintiffs in an equal protection suit demonstrate discriminatory intent, had brought the statute in conformity with Fourteenth Amendment standards in general. The amended provision allowed minority voters nationwide to challenge methods of election on grounds of discriminatory "result."

The concern at the time was that plaintiffs, in the wake of *Bolden*, would have to find a smoking gun—unmistakable evidence that public officials deliberately, knowingly set out to deprive minority voters of the Fourteenth and Fifteenth Amendment rights.

No witness, however, from the civil rights community argued that all voting mechanisms or procedures with a disparate impact on black or Hispanic voters would violate the law. Thus, the 1982 Senate Judiciary Committee Report, in explaining the newly amended Section 2, defined a jurisdiction in violation of the law as one in which "racial politics dominate[d] the electoral process." At the 1982 Senate Hearings, a distinguished civil rights attorney testified that claims of voter dilution would rest on "evidence that voters

of a racial minority are isolated within a political system... 'shut out,' i.e. denied access... [without] the opportunity to participate in the electoral process."

If all voting procedures with a disparate impact on minority voters violated the statute, then all registration processes, in jurisdictions with black and Hispanic residents, would be legally questionable. As you know, less affluent, less educated citizens tend to register and vote at lower rates, and many of those educationally and economically disadvantaged citizens are members of those minority groups.

Voter error is analogous to low registration rates; it is more likely to occur among the less educated and the less affluent. And thus, despite the thousands of voting rights cases on the books, the majority report cannot cite any case law that suggests punch card ballots, for instance, are potentially discriminatory. Or that higher error rates among black voters suggest disfranchisement.

The disparate impact test is actually very complicated, and always has been. For instance, a multimember district in which whites are a majority may have a disparate impact on minority voters. But as the Supreme Court has said (*Whitcomb v. Chavis*, 1971), the candidates supported by black voters may consistently lose, but that disparate impact upon black representation (and officeholding) is not necessarily a violation of minority voting rights. In *Whitcomb*, black voters were Democrats in a Republican County. It was not exclusion, but the process of party competition and the principle of majority rule that denied blacks the representation they sought. Political party, not race, determined the electoral outcome.

This same logic still runs through the complicated process by which a judicial determination is made in a section 2 Voting Rights Act case. Courts must determine whether minority voters have had "less opportunity" to participate in the electoral process, a finding that requires plaintiffs to meet a multifaceted test. Plaintiffs must show, for instance, that there has been "a significant lack of responsiveness of the part of elected officials to the particularized needs of the members of the minority group"; that "political campaigns have been characterized by overt or subtle racial appeals; and that voting is "racially polarized." These are just a few items off the list of so-called "factors" to which courts are instructed to refer in judging the merits of a vote dilution suit; disparate impact alone never settles the "equal opportunity" question.

These arguments are spelled out at length in my book, *Whose Votes Count? Affirmative Action and Minority Voting Rights* (Harvard University Press), which won one of the American Bar Association's two book awards in 1988.

2. Dr. Lott and I are both willing, indeed eager, to submit our analysis to independent peer review, and would be delighted to supply all of our data and the details of our analyses to a panel of experts. We have already provided this material to all scholars who have requested it.

I can only hope that you will receive a more favorable response to your request for Dr. Allan Lichtman's analyses and the data on which they rest than we have. Although Dr. Lichtman's work was paid for by the American taxpayer, and was done for a body of which I am a member, I have yet to receive the data and analyses that we have repeatedly requested, although we did file a Freedom of Information Act request.

In a July 10 memo to me, Les Jin, staff director at the Commission, stated that "Commissioners are entitled to have dissenting or concurring statements" appended to a Commission report, but the Commission "does not envision any Commissioner 'engag[ing] in a complete reanalysis of the staff's work.'" But it is, of course, impossible to write a dissent without reanalyzing the quantitative and other evidence upon which important claims have been based.

Mr. Jin seemed to imply that the staff's numbers and method of analysis are unimpeachable, and thus not open to any re-assessment. And that dissenting Commissioners cannot be permitted access to the raw material as compiled in machine-readable form and to the details of the analysis upon which the Commission's conclusions rest. It is an astonishing claim.

In that same memo, he said: "neither Dr. Lichtman nor anyone else at the Commission possesses what the dissenting Commissioners have requested." And yet Dr. Lichtman in his report refers to the multiple regressions upon which he based his conclusions. these multiple regressions and the machine-readable data that were used in them exist. And if not, upon what basis did he draw his conclusions?

At the most recent meeting of the Commission (July 13), I was told that Lichtman's data was not on "disks," and was therefore unavailable; he had worked on four or five hard drives. If so, it is a strange way of working (one regression on one computer, another on a different one, and so forth), but, in any case, it is irrelevant. The regressions and data that went into them, specifically referred to in his report, can be sent by e-mail.

Scholars across the country, on the political left and right, have been engaging in a conversation about the best way to handle the available quantitative data in assessing the Florida election. Dr. Lichtman is alone in not participating in that intellectually fruitful conversation. He is unable to join it because he has not made his data available. So, I welcome an evaluation of our own statistical analysis, and wish you luck in your quest to examine his.

My suggestions of scholars who would be well qualified to serve on an independent peer review panel (in alphabetical order):

Professor David A. Freedman, Department of Statistics, University of California at Berkeley.

Dr. Stephen Klein, RAND Corporation, Santa Monica, California.

Dr. Robert Lerner, Lerner and Nagai Quantitative Consulting, 2305 Ring Street,
Rockville, MD 20851.

Dr. David Murray, STATS2100, 2100 L. Street NW, D.C. 20037.

Professor Harold Stanley, Department of Political Science, University of Rochester .

Professor Ronald Weber, Department of Political Science, University of Wisconsin,
Milwaukee.

3. I would agree that most "voter error" is unintentional, though I think it should be noted that a small but non-trivial number of voters simply fail to cast a vote for president. They abstain from making a choice, for whatever reason, and yet their ballot is classified as "spoiled" or "rejected" in election studies like that conducted by the Civil Rights Commission.

Most "spoiled" ballots, though, very likely do not reflect the intention of the voter. There is substantial evidence that the best way to minimize voter error is by using technology that provides feedback and the opportunity to correct a ballot.

It is important to notice, though, that there is a real conflict between the aim of minimizing voter error by providing immediate feedback and our tradition of the secret ballot. Perhaps it would not apply to systems that remind voters of the choices they have made before they step out of the voting booth. But such systems leave it to the voter to understand what appears on the screen. The more common, and I would imagine less expensive, way of providing feedback is to have an election worker, at the precinct, tell the voter that he or she has made no choice for a particular office or has made more than one choice when only one is allowable. The tradeoff is that some voters may feel that the election worker who questions them has invaded their privacy—that it is none of anyone else's business if they decide not to vote for the top of the ticket, for instance.

Before one dismisses this possibility, recall that the U.S. Commission on Civil Rights devoted a good deal of space to testimony that some black voters felt intimidated because of a routine police vehicle inspection check two miles from a polling place or because they saw an uniformed policeman near a polling place. If anyone could be intimidated by that, might they not be far more intimidated when an election official, perhaps of a different race and political party, scrutinizes a machine into which their ballot has been fed and quizzes them about their intentions? It would be ironic if, in our zeal to minimize the already very low rate of voter error, we introduced reforms that led more people to feel inhibited about making choices on election day.

The real solution to voter errors, it seems to me, is increased voter education—a job for the states themselves, for political parties, and for other interested organizations. Donna Brazile, Al Gore's campaign manager, recently lamented the inadequate voter education

in preparation for the last election. "I take full responsibility for the lack of voter education resources that could have helped us," she said. While I think Ms. Brazile blames herself excessively, I do look forward to a greater effort to prepare voters to cast their ballots in the future.



MEMORANDUM

TO: SENATOR DIANNE FEINSTEIN
 FROM: OHIO SECRETARY OF STATE J. KENNETH BLACKWELL
 DATE: TUESDAY, JULY 17, 2000
 RE: TESTIMONY QUESTION

In response to your post-testimony question, I submit the following: Congress should not amend the Voting Rights Act to mandate the availability of provisional ballot.

Fail-Safe Voting Already Required by the National Voter Registration Act of 1993

There is no need for Congress to amend the Voting Rights Act to mandate the availability of provisional balloting because Congress already mandated provisional voting – or fail-safe voting – in the National Voter Registration Act of 1993 (NVRA), 42 USC 1973gg.

“Provisional voting” is a term used by Ohio election officials to describe Ohio’s procedures for implementing the fail-safe voting provisions set forth in Section 8 of the NVRA [42 USC 1973gg-6], which state in part as follows:

(d) Removal of names from voting rolls

(1) A State shall not remove the name of a registrant from the official list of eligible voters in elections for Federal office on the ground that the registrant has changed residence unless the registrant -

(A) confirms in writing that the registrant has changed residence to a place outside the registrar’s jurisdiction in which the registrant is registered; or

(B) (i) has failed to respond to a notice described in paragraph (2); and
 (ii) has not voted or appeared to vote (and, if necessary, correct the registrar’s record of the registrant’s address) in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

(2) A notice is described in this paragraph if it is a postage prepaid and pre-addressed return card, sent by forwardable mail, on which the registrant may state his or her current address, together with a notice to the following effect:

(A) If the registrant did not change his or her residence, or changed residence but remained in the registrar’s jurisdiction, the registrant should return the card not later than the time provided for mail registration under subsection (a)(1)(B) of this section. If the card is not returned, affirmation or confirmation of the registrant’s address may be

required before the registrant is permitted to vote in a Federal election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice, and if the registrant does not vote in an election during that period the registrant's name will be removed from the list of eligible voters.

(B) If the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered, information concerning how the registrant can continue to be eligible to vote.

(3) A voting registrar shall correct an official list of eligible voters in elections for Federal office in accordance with change of residence information obtained in conformance with this subsection.

(f) Change of voting address within a jurisdiction

In the case of a change of address, for voting purposes, of a registrant to another address within the same registrar's jurisdiction, the registrar shall correct the voting registration list accordingly, and the registrant's name may not be removed from the official list of eligible voters by reason of such a change of address except as provided in subsection (d) of this section.

Ohio's use of the term "provisional" to describe certain voters and ballots

Under Ohio's procedures, a fail-safe voter uses an absentee ballot to cast his or her votes. That ballot will be counted in the official canvass of the election provided that local election officials are able to confirm that the voter (1) was timely registered to vote somewhere in Ohio, and (2) did not vote at the voter's former voting residence address. Election officials began referring to this procedure as "provisional voting," in order to distinguish it from the traditional absentee voting.

Fail-safe voting already required in jurisdictions that do not offer election day voter registration

It would be redundant for Congress to include in the Voting Rights Act the fail-safe voting provisions already contained in the NVRA. There are 51 jurisdictions whose residents may be eligible to participate in U.S. federal elections. Six of those jurisdictions are exempt from compliance with the NVRA because they either have no voter registration requirements or allow U.S. citizens to register and vote on the same day (election day voter registration). The remaining 45 jurisdictions are subject to the NVRA and thus must provide fail-safe voting.

Ohio's decision to implement the fail-safe (provisional) voting provisions more broadly than mandated by the NVRA should not be considered binding on other states.

There is no disagreement that the NVRA is an unfunded federal mandate. It was the decision of Ohio election officials and legislators to implement the fail-safe voting provision on a statewide basis, rather than the narrower jurisdictional basis set forth in the NVRA. Currently, Ohio is the only jurisdiction subject to the NVRA that offers fail-safe voting on a statewide basis.

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AAPD
AMERICAN ASSOCIATION OF
PEOPLE WITH DISABILITIES

July 17, 2001

To: Carole Blessington

From: Jim Dickson

Re: Questions for hearing record

The following are my answers to the additional questions from the hearing. I have also included a copy of the questions.

- 1) The Departments of Health and Human Services, Education and Transportation, as well as, some small independent agencies, provide funds to disability organizations to provide services to their clients. As part of the application process states and agencies might be required to build into their work plans the recruiting of Americans with disabilities to be poll workers. It would be most effective if the agencies were required to report how many poll workers they registered. The Federal Election Commission, in conjunction with the National Council on Disability, could produce poll worker recruiting and training materials to assist grassroots agencies in this effort.
- 2) The Access Board in conjunction with the FEC needs to set national minimum standards for accessible machines and systems. They should also set national standards that define what a physically accessible polling place is. The Civil Rights Division of the Department of Justice should be charged with monitoring and enforcing these standards.

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July 18, 2001

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Committee on Rules and Administration
~~Attention: Carol Blessington~~
United States Senate
SR-305 Russell Senate Office Building
Washington, DC 20510

RE: The League of Women Voters' response to the written question from
Senator Feinstein for the June 27, 2001 hearing record on election
administration reform

~~Dear Ms. Blessington:~~

Senator Feinstein asks how a grant program for election administration
systems should be structured and how allocations should be made to State and
sub-state jurisdictions.

There are three structural elements of S. 953 that we believe are important:

- a. Grants would go to applying state and local entities based on need,
defined as 1) those with the most deficient voting and
administration systems, and 2) those with the greatest financial
need.
- b. There is a compliance review, conducted by a federal agency other
than the granting agency, to ensure that current federal election-
related laws are followed.
- c. There are new substantive requirements related to provisional
ballots, protections against erroneous purging, technology standards
and other safeguards.

Some have suggested a grant allocation system for states based on a formula
such as voting age population. Such a formula, or revenue-sharing plan, could
result in the use of scarce federal funds for activities or reforms that are not
needed in some states and could result in a shortage of funds for state and local
reforms that are badly needed in others.

If a grant allocation system based on voting age population, or other objective
formula unrelated to need, were to develop, we believe that the following
structural elements would be required to ensure that federal funds would go for
reforms that are needed:

- a. A review to ensure future statewide compliance with existing federal election-related laws (the Voting Rights Act (including its bilingual ballot provisions), the National Voter Registration Act, the Americans with Disabilities Act, the Rehabilitation Act, and the Voting Accessibility for the Elderly and Handicapped Act) and with new requirements (c below) by the Justice Department and other appropriate federal agencies.
- b. A citizen right of action aimed solely at ensuring compliance with the law.
- c. Federal standards that apply to:
 - voting and counting equipment (error rates, second-chance voting and overvotes).
 - voting equipment for visual disability and language assistance access.
 - polling place standards for wheelchair accessibility.
 - establishment of centralized, statewide, interactive voter registration lists linked to all relevant voter registration agencies and to all polling places.
 - provisional voting that includes notice to the voter regarding disposition of the ballot.
 - protections against erroneous purging, including timely notice and the opportunity to correct the purge at the polling place.
 - polling place notice of voter rights.

We believe grants should be made available to both state and local jurisdictions. However, state applications for uniform, nondiscriminatory, statewide technology, public education and training grants should supercede requests from local jurisdictions in that state. If a state does not apply for funds within a certain period, applications from local jurisdictions should be accepted, provided they meet program requirements.

Thank you for this opportunity to respond, and we would welcome your further inquiries on this vitally important topic.

Sincerely,

Carolyn Jefferson-Jenkins, Ph.D.
President



Raul Yzaguirre
 President, National Council of La Raza
 Answers to Post-Hearing Questions by ~~Chairman Dodd~~

Senator Feinstein

1. What specific steps can the Federal Government take to recruit and train an increased number of poll workers who are minority members, people who are not native English speakers, or people with disabilities?

The federal government must vigorously enforce already existing laws. Under Sections 203 and 4(f)(4) of the Voting Rights Act of 1965 and/or state and local laws, several jurisdictions already have an obligation to ensure provisions for language assistance, which include translations of ballots, voting instructions and permitting oral assistance.

In addition, Section 203 of the Voting Rights Act requires equal employment opportunities for poll workers and other elected officials, hence more vigorous enforcement of the Voting Rights Act and other employment laws would ensure a more diverse elections workforce.

In order to achieve participation from a wide cross-section of society it is crucial for the federal government to ensure that outreach efforts target community-based organizations, churches, community colleges and universities. Together these entities offer a large pool of people with a wide array of cultural and linguistic competencies. Effective recruitment should be done in a variety of languages in order to attract a diverse pool of volunteers.

We believe education for both voters and poll workers is a key component to improve access to the election process for minority voters. Education would benefit voters by reducing the likelihood of intimidation and encouraging participation. It also equips poll workers with voting rights knowledge that would facilitate their job on Election Day and prevent them from inadvertently engaging in unlawful discrimination. However, we also believe that vigorous enforcement is needed to punish violations of the Voting Rights Act.

In our judgement, enactment of S.565/ H.R.1170 would be an important step to remedy the breakdown of the electoral process.



2. What specific steps can the Federal Government take to make polling devices easier to use for people who are educationally disadvantaged or who have disabilities?

Technology offers significant opportunities for simplifying the electoral process and reducing its cost. Multilingual technology is essential in guaranteeing accessibility and participation of all language-minority voters. We believe that any new technology should take into account the needs of limited-English-proficient citizens.

In addition, voter education is already required under Section 203 of the Voting Rights Act and under certain state and local laws. The federal government must enforce the implementation and compliance of already existing laws that guarantee voter education.

It is important for the federal government to engage community-based organizations to ensure that all sections of society benefit from outreach efforts in voter education, registration and casting of votes.

S. 565/ H.R. 1170 would provide incentives for jurisdictions to expand the use of technology, and make the electoral process more accessible by providing sample ballots with instructions, and would allow voters to know their rights prior to the election.

QUESTIONS FROM CHAIRMAN DODD FOR LARRY SABATO

1. You discussed "second chance voting" during your oral testimony.

Please define "second chance voting" and describe how it would work.

2. Would you agree that voting would be improved if every eligible American voter used a voting system that contains the following provisions: (1) permits ballots to be verified before being tabulated; (2) notifies voters of an overvote or undervote and provides an opportunity to make corrections; (3) provides an audit trail; (4) provides accessibility for voters who are disabled, blind, and/or are limited-English speakers, and (5) establishes a nationally acceptable error rate.

Response to Questions Submitted by Chairman Dodd

(1) "Second chance voting" is simply the ability of the election poll workers and machinery at the precinct level to catch potential voter errors as the ballot is being handed in by the individual voter. If the voter has made such an error (for example, voting for two or more candidates for the same office) then the voter would be given the opportunity to correct that ballot before leaving the polling place. Of course, one should acknowledge that voters sometimes are making a statement, however irrational, by voting for two or more candidates, and under our system, they are and should be permitted to do so. But many voters have simply made a mistake. Under this arrangement, it is important that the poll worker be restricted from making any comments about candidates or parties, simply pointing out to the voter that he or she might wish to review the ballot for potential errors. When the ballots are not checked at the precinct and are only counted at a central distribution point, voters have no opportunity to correct errors. This precinct "second chance voting" would give them that opportunity, and I strongly favor it. Many states and localities already do this, so there is nothing revolutionary about it. Obviously, second chance voting cannot apply to absentee or mail-in ballots. They would continue to be counted as they are presented.

(2) Yes, I would agree that ideally, a voting system should permit ballots to be verified before being tabulated (see my answer to the above question). I also agree, as noted above, that voters should be notified at the precinct level of an overvote and an undervote with an opportunity to make corrections. I also certainly favor an audit trail, and without question, I want as we all do, accessibility for voters who are disabled, blind, and have problems or have limited use of the English language. I am much less sure about the fifth item, establishing a nationally acceptable error rate. Given the many different types of voting machines, and given the propensity of some voters to make statements-- however irrational-- by casting overvotes or undervotes, I am not certain that a national rate makes sense or would help matters. Voters in different states and localities may approach the undervote and overvote option differently, and this option should be preserved in our free system. Finally, my preference is for the states and localities to undertake reforms that encourage the first four items because I deeply believe in the federal system. For most of American history, the states and localities have had the responsibility for conducting elections, and it would be a matter of great regret if this important responsibility were stripped from the states and localities by the federal government. The health and vitality of federalism depends in large measure upon the federal government's willingness to allow diversity within the system to flourish and to refrain from exercising its superior powers in too many instances. Federal usurpation may be necessary in cases where states have been unwilling to change and unwilling to grant American citizens their constitutionally guaranteed rights as with the South and segregation. But in my experience, states are eager to experiment with and improve their electoral systems.

QUESTION FROM SENATOR FEINSTEIN FOR PROFESSOR SABATO

1. You argue that "state action, not federal mandates, is the best fix of the system (to reduce voter fraud)" and make five specific suggestions. Do you believe that the Federal Government should take no role in implementing any of your suggestions?

Response to Questions Submitted by Senator Feinstein

(1) In my view, the proper federal role is to provide money, perhaps matching grants, to states and localities to encourage certain changes in the election system. I do not believe those conditions should be required because the conditions existing in 50 very different states and in thousands of very different localities require varying solutions. The federal government would help the current situation best by providing those funds and allowing the laboratories of democracy to work their will.

Jul-25-01 22:07 From-NAACP

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Responses to Questions from Senator Feinstein

1. What specific steps can the federal Government take to recruit and train an increased number of poll workers who are minority members, people who are not native English speakers, or people with disabilities?

Answer:

The Federal government, along with states and local municipalities, should be very deliberate about establishing a pool of organizations from which they can recruit poll workers who are willing and capable workers and who would not be intimidating to the people who come to the polls to vote.

Such organizations should include *grassroots organizations* that are reflective of the neighborhoods in which they serve, including the National Association for the Advancement of Colored People (NAACP), the National Council of La Raza, the League of United Latin American Citizens (LULAC), the Organization of Chinese Americans (OCA), the Japanese American Citizens League, and the National Congress of American Indians; *social organizations* that have a national base, such as the Jack and Jill Clubs and Links, Inc.; *Fraternities and Sororities*, including Alpha Phi Alpha Fraternity, Alpha Kappa Alpha Sorority and Delta Sigma Theta Sorority; *churches or other houses of worship* that serve ethnic minority bases; and *national disability advocacy groups* that have broad memberships, including United Cerebral Palsy and the National Federation for the Blind.

All of the groups listed above, as well as many others, have a large base of individuals who have a tradition of volunteerism and are often known and trusted in their neighborhoods. Given the proper, uniform training these people could be real assets in making sure that every American who wants to vote can and that his or her vote is counted.

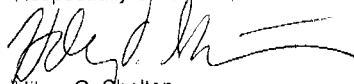
2. What specific steps can the Federal Government take to make polling places easier to use for people who are educationally disadvantaged or who have disabilities?

Answer:

The United States' government can and should learn from other nations, many of whom are just beginning to implement nation-wide voting procedures under relatively new democracies. Countries such as South Africa, which have very high illiteracy rates among certain sectors of the population, have developed a set of uniform symbols and pictures that are used to help people determine who they are voting for even if they can't read.

Furthermore, the Federal Government should work with organizations representing the disabled, including the National Federation of the Blind and United Cerebral Palsy, as well as institutions of higher learning such as Galludet University, to develop a set of uniform acceptable practices for making the polls more accessible to the disabled. This would include making ballots easier for Americans with disabilities as well as establishing a way to ensure that areas with high concentrations of people with disabilities are adequately prepared to provide for all people who want to vote.

Respectfully Submitted,



Hilary O. Shelton
Director